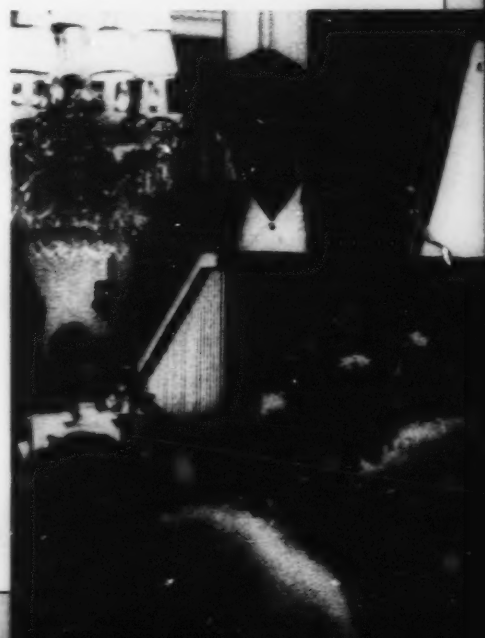


*“My objective is to give the concepts of fairness and equity closer scrutiny so we can see why they still elude us in a country which considers itself modern, enlightened and democratic.”*

Roberta Jamieson  
OMBUDSMAN



MESSAGE FROM THE

OM  
BUDS  
MAN

This has been a year of tough challenges. This has also been a year of significant advance toward providing the people of Ontario with the best possible Ombudsman services. Yet at year's end, it is clear there is still more to be done.

In my last Annual Report, I published a Mission Statement to set out the standards and directions to which I expected to be held accountable. The Statement was intended to serve as a set of objectives against which accomplishments could be measured a year hence.

It is one thing, of course, to make a statement, another to put it into practice, and still another to achieve the intended results. The way things have always been done seems so comfortable, and the implementation of new approaches may be stressful. The experience of creating fundamental changes in my own organization has made me even more appreciative of the difficulties which face any administrator engaged in a similar task.

To assist in changing operations to support the Mission Statement, an action plan was set out and continues in effect. Internal standards based on the Mission Statement are being adopted against which the quality of service provided can be measured.

I am acutely aware that if I am to be credible in my evaluations as to whether others are being fair and just, my own operations must be able to meet the same standards.

#### **NEW DEMANDS TO MEET NEW TIMES**

Even in quiet and ordinary times, there are new challenging requests for the assistance of the Ombudsman. In 1991-92, requests were even more challenging and complex than usual because of the dynamic changes which are taking place in Ontario and in the world. New issues are coming forward for which there are no easy resolutions. Considerable effort is required to make progress when even maintaining the status quo is difficult. There have been many issues competing for my attention and energies.

These are times of stress for governments at all levels, and for individuals, families and communities. Difficult tensions result when minor adjustments can no longer accommodate the rapid, unexpected, fundamental global changes which make radical restructuring almost a way of life. Ontario is not immune from these tensions.

The still-increasing diversity of the province's population brings out new issues. People are moving beyond equality to insist upon equitable treatment which is sensitive and responsive to cultural, physical, and religious differences. They are demanding the removal of obstacles which prevent themselves and others from making their maximum contribution to the common good. New debates of old concepts such as fairness and justice are re-sculpting ideas which were thought to be written in stone. On the other hand, there are tensions raised by those who are fearful and troubled by

the readjustments in power and resources which are taking place. There is a common perception that the pie to be cut is of a fixed size, and that more people taking their share will mean a decrease in the amount people are accustomed to receive. This is especially true in difficult times when the pie appears to be shrinking. Consequently, the argument that the pie will get bigger if more space can be made for all people to make their full contribution too often meets an emotional rather than a rational response.

There are also tensions between the expectation that decision-makers will make decisions and the expectation that the public be fully involved in decision-making. They want to be consulted. The public is making increased demands for higher standards in the administration of government. The public is demanding accountability as never before. Administrators are called upon to do more with less, and to do it better, while at the same time respond to a

public increasingly impatient for improvements in public service so that Ontario can respond well to the demands of the 21st Century. Available resources for government services are shrinking, and the public is raising new issues as to how government spends money and determines its priorities. The result is that I am receiving many more complaints about government spending decisions, or that the public was not consulted in setting priorities for the use of available funds.

#### **TRENDS AND INCREASES IN COMPLAINTS**

I have noted two disparate trends which seem to be causing parallel increases. There is swelling activism and involvement in matters which until recently were left to government to do in its own way. At the same time there is an increase in the number of persons who feel powerless and unprotected. Government is so big and so powerful and involved in so many aspects of our lives, members of the

public sometimes feel they have no control, no way to be heard in an increasingly impersonal computerized society. They feel that ordinary methods of having a complaint resolved no longer work, and that a person must have assistance if action is to be obtained. This is especially true of those who are the most vulnerable to injustice, and the least able to seek remedies. The result is that I and my staff are called upon to provide assistance to the activist and the powerless, and all degrees between, and in increasing volume.

Another trend I have noted relates, I believe, to the current recession. Even in the best of economic times, an Ombudsman can expect to receive concerns about employment or employability, health, economic loss, or damage to a person's well-being. In recessionary times, not only are there more people asking for Ombudsman services with respect to matters such as social assistance, but these same concerns take on new importance. Persons feeling economic pressures are more inclined to want action on a concern.



They press their complaint with greater forcefulness and conviction, and they are not easily persuaded when their complaint is not supported. The public often considers "government" responsible for their economic difficulties, and they feel resentment when they see public servants not facing hardships similar to their own. The result is less tolerance for any breach of courtesy, any delay, any laxity in the government's administration.

## [ AWARENESS AND OUTREACH OF THE OMBUDSMAN ]

I consider it part of my responsibility to assist in creating the atmosphere which makes it conducive for people to come forward with concerns and ideas about how government administration can improve. An important element of public education activity is to demonstrate that it is possible for the "ordinary person" to obtain relief from problems caused by government action or inaction. In these times when people feel powerless in their dealings with the massive institutions which seem to tower over their lives, the Ombudsman demonstrates that there are things the people can do to achieve change in government. A strong sense of power by the people is essential to the functioning and enhancement of democracy. People need to understand and to be reminded of democratic principles – that the government belongs to them, that no one is defenceless before government, that there is a right to petition the government for redress of grievance.

One of my major objectives has been to ensure there is adequate public awareness among all segments of the population in every part of Ontario about how to access the Ombudsman's services. Awareness also means knowing what those services are. Last year, I commissioned a public opinion poll which reported there are still far too many people who are unaware of the services provided by the Ombudsman – particularly among those groups who are most vulnerable to problems relating to government administration and who have the most limited resources to deal with these problems. A summary of the survey results was printed in my last Report.

To move toward remedying this situation in one area of Ontario, in March, I launched a modest six-week campaign designed to bring the Ombudsman's services to the attention of more people in Metropolitan Toronto and the Golden Horseshoe, reaching 52% of the province's population in one effort. The campaign was shaped to create greater public consciousness of how the Ombudsman can work with the public to improve government administration.

The awareness campaign also will help, I hope, to create a different image of the Ombudsman. Historically, the Ombudsman is considered to be where one takes complaints about public administration. Naturally, bureaucracies have

reacted defensively. In my experience, this confrontational environment can make resolution of problems difficult.

From the outset of my tenure, I have tried to create an image (and reality) of a Legislative Official whose role is to assist the people of the province to resolve concerns and issues which they might have in their affairs with government, and reciprocally, a role which assists agencies to respond to new standards of fairness in administration and to identify and eliminate problems of adhering to them.

## [ ONTARIO'S NORTHERN COMMUNITIES ]

I am also acutely aware of how much needs to be done to meet the challenge of providing services to remote communities. In February, I visited a number of James Bay communities including: Moose Factory, Fort Albany, Kashechewan, Attawapiskat, and Peawanuck. I found the nature of complaints which were presented to me entirely different than those received in other parts of the province. I found complaints causing on-going problems which have their roots shrouded in mists of history and tangled by unclear or disputed federal and provincial responsibilities. Attempts to resolve these long-standing issues and concerns have to take these factors into account as well as factors of isolation, cultural differences, and the absence of ordinary resources.

I am also cognizant that First Nation cultures may have unique ways of viewing and dealing with complaints. Some, for instance, may be accustomed to having a chief or elder speak on behalf of individuals.

There are questions of collective rights to be addressed. Treaties and international conventions may also bear on the way a complaint would be viewed and resolved.

I was pleased for the first time, as Ombudsman, to visit communities and groups in the Kenora, Emo, and Fort Frances areas. Here, as it was in the James Bay area, my attention was directed to a relative lack of resources, access to services, knowledge of government and the public's rights to fair administration. Very special issues and concerns arise because of isolation, especially for the elderly and persons whose absence of good health restricts their daily lives. My own services, for instance, must take into account

that the usual requirement that all avenues of appeal must be exhausted may be inappropriate where there is a deep-seated belief among the people of the region that the appeal process has no credibility.

That is the most distressing circumstance I encountered in Ontario's north country – a total lack of faith that any complaint presented to the government will ever be addressed at all, or if addressed, that it will be dealt with fairly and justly. Every governmental organization must address this





situation and the powerlessness which the people of the area feel so intensely.

Throughout the North, but especially in the First Nation communities where conditions exist which would not be tolerated anywhere else in Canada, governmental organizations

must join with communities to take special, even unusual creative initiatives which have measurable short and long-term goals against which progress can be regularly evaluated.

### **[ PUBLIC EDUCATION ]**

I have given careful study to the way in which I can use district offices to improve outreach and access without increasing costs or creating new complications in the Ombudsman's processes. Staff have undertaken a variety of public education activities, particularly at the high school and community college levels. In consultation with school boards, plans are being made for a more structured approach to develop appropriate curricula. I am developing a separate strategy to reach youth not affiliated with any school system. I continue to be concerned about any services being accessible to persons who have limited reading and writing skills.

Because the survey showed that groups who are more vulnerable knew less about my services, priority in the public education program is given to them in keeping with the Mission Statement that all people in Ontario should be aware of my services. Strategic plans for public education dealing with this concern have been developed for each of the district offices.

A computerized information system using available census and other demographic data is being developed to support these plans. Through the system, comparison will be possible between various categories of the population using my services in a particular area with the actual demographic data. This will help to identify population groups which are not being served. The system will also assist in monitoring the public education activities undertaken in relation to the groups which require special effort.

These and other public education initiatives are coupled with intake clinics designed to make services more accessible to all people of the province, regardless of where they live. Communications with district offices have been improved with the installation of fax machines and telephone service (TDDs) for people who are hard of hearing or deaf. Staff complements will soon be at full strength, and I will then be offering bilingual services in all designated areas of Ontario.

I and members of my staff are continuing to improve our

ability to communicate with clients in a manner which is culturally and linguistically appropriate to each client, as well as being clear and concise. Achieving this goal means overcoming problems of lack of translators, budgeting funds to pay for their services, etc., and doing so in a manner which does not contribute to delay in dealing with the complaint.

Among the persons who are vulnerable to problems with government and who may have difficulty in protecting their rights and interests are persons with disabilities. These same persons may not always be able to bring a matter to the attention of the Ombudsman. A Bill is before the Legislature (the Advocacy Act) which would appoint advocates who, among other duties, would be able to assist such persons in obtaining the Ombudsman's services. While I do not wish to pre-empt the Legislature's prerogatives in considering the Bill, I do welcome any provision of assistance to persons with disabilities to access my services as well.

The Bill also provides me with the opportunity to comment on the difference between an "advocate" and the Ombudsman. Advocates speak on behalf of their clients. They represent a point of view. This is necessary and desirable in a democratic society. This differs in two important respects from the work of an Ombudsman, however. The Ombudsman does not advocate, but maintains a neutral and independent position throughout her investigation and in presenting her findings and recommendations. Furthermore, the Ombudsman has been equipped by the Legislature with significant powers of investigation, including the ability to access documents, examine witnesses under oath, as well as the power to present to the Legislature any problems she has in securing the implementation of her recommendations. Given these differences in function and power, it is important that the provision of advocacy services at all times is not confused with or does not limit the access of the group to the services of the Ombudsman.

### **[ THE OMBUDSMAN AND THE LEGISLATURE ]**

In passing the Ombudsman Act, the Legislature has taken measures to protect the Ombudsman from inappropriate pressures which a government might apply. Much still needs to be done to reinforce the view that the Ombudsman is completely independent of the public service and is a non-partisan long-term appointee. Her budget is

approved by the Legislature's Board of Internal Economy, not set out by the government as is the case with ministries and agencies.

The post of Ombudsman originated in another system, and its grafting onto modern parliamentary government does not always make it clear exactly what its working relationships are to be. In actual fact, the Ombudsman is a Legislative Official whose role is to assist the people of the province to resolve concerns and issues and to help government respond to new standards of fairness.

Although the Ombudsman has no power to enforce her recommendations, she does have the power to present the Legislature



with a Report when a governmental organization refuses to implement her recommendations. To facilitate the Legislature's consideration of such a report, a Standing Committee on the Ombudsman has been established.

It should be noted that for the second straight year, it has not been necessary for me to seek the intervention of the Legislative Assembly in order to have any of my recommendations implemented.

I have appeared several times this year before the Standing Committee on the Ombudsman. I continue to discuss with the Com-

and with other interested persons and groups.

I am pleased to note the improved communication between my office and Members of the Legislature and their assistants. I have noted an increase in referrals of constituents to my services. My staff has also been able to provide constituency assistants with answers to questions raised by constituents about my procedures. In order to develop a more useful working relationship with Members of the Legislative Assembly, senior members of my staff have conducted a series of workshops for constituency assistants, and are available to do more.



mittee our respective roles. I have emphasized the unique functions of my Office as set out in the Ombudsman Act, the breadth of their scope, the far-reaching powers provided, and the fact that the Ombudsman is a place of last resort. I have also appeared before the Standing Committee on the Legislative Assembly and the Committee on Ontario in Confederation.

In one appearance before the Standing Committee on the Ombudsman, I was asked for my opinions on the jurisdiction of the Ombudsman. My statement on this matter is in Part III of this Report. I look forward to discussions on this subject with the Committee

### [ THE TITLE OF "OMBUDSMAN" ]

For well over a century, the only word which described the unique mandate of the Ombudsman was the word "Ombudsman" itself. There were no synonyms. When the Ontario Legislative Assembly wished to establish this position, it adopted the word then in use, and it alone has the power to change it. While that may have been acceptable in the 1970s, today, however, it is frequently brought to

my attention that the word has a sexist connotation. Whether in the original Swedish, the "-man" portion of "Ombudsman" applies to the office holder or to the population represented, the English language connotation implies a male-only domain. I have received many commentaries that the title should go the way of "chairman", "workman", "foreman", as well as concern that "Ombudsperson" is an unsatisfactory substitute. It is suggested that the title should be easy to understand and easy to pronounce.

While "Ombudsman" remains in use in many countries and is found in the "International Ombudsman Institute" with headquarters in Canada, other jurisdictions have "Parliamentary Commissioners" (Denmark, Finland), "Public Protector" (Quebec), "Public Counsel" (Nebraska), "Commissioner for Complaints" (Northern Ireland). None seem completely satisfactory. Perhaps if wider creative thought is given to the matter, a title would be invented which would be considered appropriate to the Ontario of the 21st Century.

## **[ HUMAN RESOURCES ]**

While as Ombudsman, I take sole responsibility for my decisions, I am supported in the fulfilment of my mandate by a staff which combines sensitivity and courage with knowledge and skills in a wide variety of disciplines and backgrounds. I have in-house and independent legal counsel. It is also important that my staff be from many community sectors so as to be representative of the people of Ontario.

Realizing that a productive, expert, conscientious, sensitive staff is my most important resource and the key to implementing the Mission Statement, I have moved away from "personnel administration" to providing a wide variety of pro-active human resource services. I want my staff to be in a congenial and efficient work environment which provides equality, equity, respect, freedom from discrimination and harassment, opportunities for growth and development. I continue to emphasize professional human resources management to ensure staff has timely, accurate, and candid information and that their feedback is encouraged, heard, and valued.

I have sponsored a number of staff-training programs. A three-phase course in cultural sensitivity training was provided. Training in non-adversarial methods of resolving conflict has also assisted staff in developing better teamwork and cooperation and in expanding options in their casework.

By providing in-house training, seminars which raise consciousness about new issues and new attitudes, and evaluation for existing staff and by bringing in fresh staff with a variety of different skills, ideas, and approaches, I continue to develop a staff committed to implementing the Mission Statement fully, energetically, and enthusiastically.

As I mentioned at the beginning of my Message, I appreciate the heavy burden which has been placed on staff in adjusting to a new Ombudsman with a new mission statement and a new approach: perceptions of the job to be done are changed, new standards are met, attitudes are changed. The public has very high expectations of the Ombudsman's staff: they look for commitment, perseverance, and dedication which goes beyond ordinary working arrangements. Our joint goal is to ensure that the public's expectations are met and that the Ombudsman organization achieves the high quality which positions it as a model of service.

## **[ EFFICIENCY IN RESOLVING ISSUES ]**

The Mission Statement promised that my services would be rendered in a timely, cost-efficient, and effective manner. Delay by a governmental organization is a principal cause of complaint, and I must be certain no unnecessary delays exist in my own operations. Progress has been made in this respect. I have established a maximum two-month recorded contact rule, meaning that both complainant and governmental organization are kept informed at least within two months, preferably far sooner, about the progress of an investigation which goes beyond that time period. Regular case file reviews are held every six weeks to determine if a case is moving along as rapidly as possible.

Emphasis has been given to early resolution of concerns. Successful early resolution techniques are less expensive than extensive investigations, and both client and governmental organization have the benefit of a quick resolution.

I commend the Ministry of Correctional Services and most of the organizations for which it is responsible for the vast improvement I have noted in its cooperation in resolving issues and complaints I have brought to its attention. Response time in replying to my letters has been reduced; replies are more comprehensive; a willingness is shown to consider alternatives and to go beyond the complaint at hand to develop a long-term solution to the problem which caused it; there is an appreciation for the value to its operations which preventative Ombudsmanship can offer. Efforts in these directions by the Ontario Parole Board and the Ministry of Housing are also to be commended.

I urge the Health Disciplines Board, the Ministry of Health, the Ministry of Financial Institutions and particularly the Ministry of the Environment and the Ontario Human Rights Commission to work toward improving their respective abilities to cooperate in finding prompt and satisfactory resolution to the complaints and issues brought to their attention.

## **[ PREVENTATIVE OMBUDSMANSHIP ]**

From the beginning of my tenure, I have engaged in "preventive Ombudsmanship". I believe the public is well served when the individual concerns they bring to me for resolution lead to changes which benefit many others.

One aspect of preventative Ombudsmanship is sharing my experience and expertise with governmental organizations as to how they may bring their procedures and regulations to the standard of democratic administration that the people of Ontario expect.

Many of the matters which the public complains about in government are those human failings which can be found wherever human activity exists: indifference, insensitivity, negligence, arbitrariness. When these ordinary failings are combined with state power and bureaucracy, they may be magnified so as to encroach on a person's rights and sensitivities. The Ombudsman provides the public with protection against these inherent defects. However, the Ombudsman need not wait until damage has been done - by acting as a vigilant monitor, by calling attention to problems where problems emerge, and by assisting governmental organizations to understand the standards to which the public holds them accountable, the Ombudsman engages in preventative action.

Wherever possible, I look for a resolution of a complaint which will also ensure that the problem doesn't happen again. Recommendations most often go beyond an individual case. While persons are raising issues which affect them personally, the same issues have the potential to affect a great number of persons if not corrected. This means the nature of investigations is changing. More frequently, my staff sits down to discuss with officials the practices, procedures, policies and problems which have contributed to the complaint to determine the best way of remedying the root cause of the situation. I commend the increased sharing of information which this approach is generating. This sort of cooperation flourishes best in the absence of an adversarial and hostile atmosphere.

There may be those who are disappointed that resolution of issues means less public criticism of government by the Ombudsman in these Annual Reports. Unless there are specific reasons to do so, there is no need for the Ombudsman to embarrass organizations or highlight maladministration when it is corrected with diligence and not repeated. Indeed, this could be counterproductive to the good working relationship which makes my work more effective. It is only where the government fails to heed the measured findings and recommendations of the Ombudsman that it becomes necessary for the Ombudsman to table a Report with the Legislature for public action.

### **[ A FEDERAL OMBUDSMAN ]**

I have joined with several of my provincial colleagues in discussions regarding the establishment of a federal Ombudsman. There is consensus that a federal Ombudsman is badly needed. Subject areas which give rise to numerous inquiries are Unemployment Insurance, Canada Pension Plan, federal income tax, federal health matters, First Nations, aboriginal issues in general, and bankruptcy.

Our discussions have focused on using our expertise and experience to formulate a range of options which we consider would be appropriate and useful. With the demise of the Court Challenges Program which provided funding to pursue test cases, the need for an Ombudsman is even greater.

In 1990, the provincial Ombudsman informed the Prime Minister of Canada of their request that the federal government, in conjunction with representatives of the native peoples, move to create the position of a Parliamentary Commissioner on Aboriginal Issues. That office would be responsible for assisting parties involved in conflict to reach a resolution, and if appropriate, to investigate complaints or problems and to provide a written report to Parliament.

---

As I move into the third year of my ten-year mandate, I see increasing appreciation for the role of the Ombudsman. Politicians and administrators see the Ombudsman process as a constructive way to respond to criticism, and the non-adversarial conflict resolution processes as a valid means of dealing with just complaints.

The Ombudsman was created by the Legislature to ensure that all governmental administration is in accord with public policy objectives and measures up to the highest standards. The Ombudsman provides an opportunity to verify that the social contract between government and governed operates fairly and within the law, an opportunity to monitor the government's duty to comply with its obligation of accountability to the people.



This year, I have endeavoured to meet the challenges without any substantial increase in resources since I wished to do my part in holding expenses under control in difficult economic times, and because I am not yet satisfied I have achieved every possible internal efficiency. The capacity of these economies to meet increased demands is rapidly reaching its limit.

Although the newness of being Ombudsman has long since worn off, I continue to be constantly impressed by the honour and obligation I have been given to make the Ombudsman of Ontario a state-of-the-art operation. I continue to regard it as an elegant instrument for improving democracy and to create a culture which demands and contributes to a high standard of public administration for all people of the province.

Roberta Jamieson  
Ombudsman of Ontario

**TABLE OF CONTENTS**  
**ANNUAL REPORT**  
**FOR FISCAL YEAR APRIL 1, 1991 - MARCH 31, 1992**

Selected Case Studies Illustrating the Ombudsman's **I** Work and Reasons for Complaint 8

Special Investigation: The Ontario **II** Human Rights Commission 26

Statement on **III** Jurisdiction 27

Legislative Issues Affecting **IV** the Ombudsman 29

Activities of the Ombudsman: **V** Events of the Year 30

International Activities **VI** and Visitors 35

Statistical **VII** Data 39

Expenditures for **VIII** 1991-92 Fiscal Year 41

# I

## **SELECTED CASE STUDIES ILLUSTRATING THE OMBUDSMAN'S WORK AND REASONS FOR COMPLAINT**

**E**ach person who comes to the Ombudsman for assistance can expect to receive individual attention. There are too many cases for each one to be summarized in the Annual Report. The summaries which follow, however, have been selected because they are illustrative in describing the sort of matters brought to the Ombudsman and how the Ombudsman does her work.

The name of the governmental organization involved in a case is not identified unless it is necessary for the summary to make sense, or where it is obvious which organization is involved, the name of the organization is given. Each of the cases described in this section were closed during this fiscal year.

For this year, in order of frequency, the most common fairness issues people raise in their complaints to the Ombudsman:

**1**

**wrong or unreasonable interpretation  
of information and evidence;**

**2**

**wrong or unreasonable interpretation of criteria,  
standards, guidelines, regulations, laws, etc.**

**3**

**unreasonable delay;**

**4**

**failure to adhere to its own processes, guidelines  
and policies, or to apply them in a consistent manner;**

**5**

**an inadequate or improper investigation was conducted;**

**6**

**failure to keep a proper record;**

**7**

**failure to provide sufficient or proper notice;**

**8**

**a decision or policy has an adverse impact  
or discriminatory consequence for an individual;**

**9**

**misleading or wrong information is provided  
to an individual which consequently placed the person  
at some disadvantage;**

**10**

**failure to monitor or manage  
an agency for which it has responsibility;**

**11**

**insufficient reasons for decision or no reasons given;**

**12**

**improper conduct or mismanagement by an official.**

# 1

## Wrong or unreasonable interpretation of information and evidence

**A**t times, a governmental organization may agree to correct an inaccuracy which the Ombudsman brings to its attention, making a formal investigation unnecessary.

Mr. Q is a commercial fisherman operating in the Lake Huron Basin area. He complained to the Ombudsman that the whitefish allocation given to him by the Ministry of Natural Resources had been miscalculated, making his annual quota 10,000 pounds less than he thought it should be.

The Ombudsman discussed the matter with the Ministry. She found the Ministry's quota was based on average catch in the licensed area between 1977 and 1982. The Ministry recalculated Mr. Q's allotment and found that indeed an error had been made, although it was less than the 10,000 pounds Mr. Q had calculated. To compensate, however, the Ministry agreed to increase Mr. Q's 1991 allotment by 10,000 pounds.

**T**he Ombudsman may help to remedy an injustice caused by miscalculations of a governmental organization.

Mr. F called the Ombudsman from the detention centre where he was held to complain that his release was scheduled for one month past the time he believed he should have been released.

Calculating Mr. F's release date was complicated. He had been released on bail pending appeal after serving 17 days of a 15 month sentence. The appeal court reduced the sentence to ten months less the 17 days already served. He was rearrested, taken to court to vacate bail, and a new committal date was posted a month after his rearrest.

The Ombudsman called to make informal inquiries. Within 24 hours, the centre's records clerk called back to report Mr. F was basically correct in his calculation, and he would be so informed.

**T**he Ombudsman's investigations may cause a tribunal to agree to hold a new hearing.

When Mr. W disagreed with the conclusion of the Workers' Compensation Appeals Tribunal that a shoulder disability was not related to a work-related accident, he asked the Ombudsman to investigate.

The Ombudsman obtained clarification of medical opinions, and discovered other information which was on record. This was considered by the Tribunal as new evidence and it agreed to hold a new hearing on the case.

---

As a result  
of the  
Ombudsman's  
investigations  
and findings,  
amendments  
to legislation  
may be  
proposed.

Mr. W objected to a decision of the Rent Review Hearings Board concerning his application for a rent increase on a property he owned. He also complained that the Board's subsequent

refusal to reconsider its decision was unreasonable. He asked the Ombudsman to investigate.

The Ombudsman found that, while the Board had the legal discretion to reconsider its decision when it believed a "serious error" had been made, the Board did not believe this was the case with respect to Mr. W's hearing. She found that the onus was on the applicant to provide sufficient evidence in support of his application. Since Mr. W had not submitted clear and detailed evidence to permit the Board to determine what maintenance expenses he had incurred, the Board could not be held to be unreasonable in the decision it reached, nor could it be said to have committed a "serious error" which would allow it to reconsider.

However, the Ombudsman recommended the Board develop guidelines which would set out the meaning of "serious error" so the Board and the public alike could understand the criteria to be met. She also suggested that the legislation be examined with a view to providing that someone other than the person who made the original decision be the one to determine whether or not a "serious error" had been made. Otherwise, there might be an apprehension that the person making the original decision would be biased.

In response to the recommendations, the Board developed and published appropriate guidelines. Amendments to the legislation were drafted to provide for an independent finding as to whether a decision would be reconsidered.

# 2

*Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, etc.*

**W**hat may seem a minor matter to a governmental organization may be of major importance to an individual - the Ombudsman can sometimes bring quick action.

Ms. P's son receives a disability allowance. He had an opportunity to work for two summer months and he earned \$480. She informed the Ministry of the income, but she believed the amount deducted from her son's allowance was excessive. She went to the Ministry's district office but had no success in resolving the issue. She asked the Ombudsman for help to get the matter cleared up.

The Ombudsman made informal inquiries and the Ministry agreed the amount deducted was excessive, and agreed to a prompt reimbursement.

**T**he Ombudsman's involvement may sometimes result in a Ministry changing the way in which it interpreted and administered legislation.

Mr. Z complained that he had been held down by correctional officers in his cell and injected with a tranquilizer by the institutional psychiatrist.

The Ombudsman's investigation led to discussions with Ministry officials. The implications of a recent Ontario Court of Appeal decision concerning the use of chemical restraints against a patient's will was considered. The Ministry agreed to prohibit the use of chemical restraints on inmates.

**S**ometimes the Ombudsman's intervention can cause a governmental organization to make reasonable changes in procedure.

As an employer, Dr. P pays premiums to the Employer Health Tax Plan administered by the Ministry of Revenue. He asked the Ombudsman to look into the Ministry's practice of sending out billing statements only 15 days prior to due-date. The bill stipulated the payment must be accompanied by the top portion of the statement. He felt this was unreasonable, since too little time was left after receipt of the bill to make the payment on time.

The Ombudsman discussed this concern with the Ministry. It advised Dr. P that he could submit his remittance in advance without the top portion of the statement as long as all pertinent information was provided.

**I**n some cases, the Ombudsman must look to the intent of legislation to determine if it is being applied justly - even though technically, the law is being followed.

The B family made plans to immigrate from Germany to bring back to life a derelict farm property in Eastern Ontario. Because they had not yet immigrated at the time of purchase, they had to pay the land transfer tax at the non-resident rate amounting to some \$23,000. They applied for and received a deferral of the rate on the condition they would take up residency in Ontario within a specific time period.

Unfortunately, the B family could not meet the deadline: their initial application to immigrate to Canada was rejected by federal immigration officials; the sale of their German assets moved slowly, and they needed the funds to finance the farm operation. Finally, their eldest son did not complete his two-year agricultural apprenticeship program before the Ministry's deadline passed. The deadline passed six months before the B family arrived on their new farm - and the Ministry refused to allow the refund of the non-resident tax. They asked the Ombudsman for help.

The Ombudsman investigated, and was able to provide proof to the Ministry that the B's had missed the deadline because of factors beyond their control. Furthermore, she pointed out to the Ministry that the intent of the Land Transfer Tax was to protect Ontario's agricultural land by preventing non-residents from speculating in land. Finally, the Ombudsman presented facts to the Ministry demonstrating the B family were bona fide farmers who had taken a derelict property, added to its value, and established a viable farm operation.

As a result of the information provided by the Ombudsman, the Ministry reconsidered its decision, and recommended to the

Lieutenant-Governor that a remission of tax, together with applicable interest, be granted to them.

**S**mall businesses as well as individuals can and do ask the Ombudsman for assistance.

The A&A Moving Company moved the household goods for a public servant who had been transferred. It seems some boxes were lost in the process, and the Ministry involved was unwilling to pay the moving bill until the claim for the loss had been settled.

As a result of the Ombudsman's inquiries, the Ministry took an active part in facilitating resolution of the claim and the payment for the balance of the invoice was approved without delay. Of equal importance, the Ministry established clear guidelines with respect to cases such as these, providing for payment of interest for any invoice paid after the due date as a result of delays caused by a pending claim.

**R**esolution by the Ombudsman of one client's concern may result in policy improvements which will affect many more persons.

When their son required treatment for drug and alcohol dependency, the Zs took him to a U.S. facility. The Ontario Health Insurance Plan (OHIP) would not cover costs because the facility was not a "licensed hospital" as defined by law. The Zs appealed to the Health Services Appeal Board (HSAB), and a decision was handed down in their favour. However, OHIP still did not reimburse them. They asked the Ombudsman for assistance.

The Ombudsman investigated. She found that OHIP had erroneously held that the Zs had no statutory right of appeal. The Ministry of Health agreed that in the future it would ensure timely implementation of Health Services Appeal Board decisions, and that it would advise persons whose claims were denied that they could appeal to the HSAB. The Zs also received compensation for the delay in receiving payment of their award.

# 3

## *Unreasonable delay.*

*When delays by a governmental organization seem to be excessive, persons can often find the Ombudsman to be of assistance.*

### **Example #1:**

Ms. F contacted the Ombudsman because she believed the Public Trustee's office had unreasonably delayed releasing the assets of her late uncle's estate. The Public Trustee had apparently misplaced original notarial copies of the letters of administration which had been submitted by Ms. F's lawyer in October 1990. A second copy of the documents were provided in June, 1991.

The Ombudsman made informal enquiries. As a result, the Public Trustee's office immediately released the uncle's assets, and a cheque was sent to Ms. F's lawyer for \$24,000.

### **Example #2:**

Mr. N came to the Ombudsman because his son had been recommended for transfer from a maximum security psychiatric facility to another provincial psychiatric facility. However, the recommendation had been made two and half months earlier - and still no transfer.

Within a week after the Ombudsman contacted the facility's administrator, Mr. N's son was transferred.

### **Example #3:**

Mr. E injured his back at work and applied for Workers' Compensation benefits. The claim was approved, and Mr. E had to travel to Toronto three times to undergo surgery and for later treatment. He had submitted claims for reimbursement of his travel expenses to the Workers' Compensation Board for three months - but nearly a year later, no payment had been received.

Mr. E asked the Ombudsman for assistance for what he considered to be an unreasonable delay. As a result of the Ombudsman's informal enquiries, the Board decided to allow the travel entitlements, and a cheque for \$696 was issued.

**O**ften the Ombudsman is asked for help because excessive delay on the part of a governmental organization is causing severe hardship. Sometimes other problems of administrative unfairness complicate the matter.

Ms. V is a high school student who is attempting to finish high school, even though she has been forced to leave her family home in a small Ontario town. She applied for social assistance in September, 1991, but her application was refused. She appealed the decision to the Social Assistance Review Board, and applied for interim assistance on September 16.

The Board received a reply from the municipality involved on October 10, at which time it was advised that an appeal was premature in that it had not yet reached a final decision on the September application because it considered the information provided to be incomplete. The Board then advised Ms. V that her request for a hearing and interim assistance was premature, and that her file had been closed. No opportunity was given for her to contest the decision, nor to set forth her position that she had provided all required information to the municipality.

Ms. V contacted a community legal aid clinic which in turn contacted the Ombudsman, contending the Board's decision not to provide interim assistance was unreasonable. She also reapplied for social assistance for the month of October, and her application was again denied.

Ms. V then applied a second time for interim assistance, but the Board did not respond until December 9. Even though the Board had then granted her interim assistance until such time as the hearing for her appeal had been scheduled, she considered the delay in reaching this decision to be excessive.

As the result of a series of inquiries, on January 13 the Board advised the Ombudsman that its October 10 decision was considered to be erroneous because it failed to be administratively fair. It said the municipality would be ordered to provide Ms. V with the interim assistance from September 16 to October 15.

**A** person with a disability asked the Ombudsman for assistance in speeding up the processing of his application for a special parking permit.

When Mr. U became disabled by severe arthritis, he applied for a special parking permit issued by the Ministry of Transportation for persons with disabilities. He was advised it would take two to three months for his application to be processed. He considered this to be unreasonable, and he asked the Ombudsman for assistance.

The Ombudsman contacted the Ministry. It agreed to issue within a week a temporary parking permit which would be valid until a permanent permit could be issued.

**W**hen the Ombudsman finds a pattern to complaints about a particular governmental organization, she can initiate her own study to look at the root of the problem.

The Registrar General Branch of the Ministry of Consumer and Commercial Relations is responsible for recording all vital events that occur in Ontario - name changes, births, marriages, deaths, etc.

In March, 1991, the Registrar General moved its main centre of operations to Thunder Bay. Although a public service counter remained open in Toronto, not all of the services were offered there.

The Ombudsman made inquiries regarding a number of cases. With the cooperation of the Registrar General, many issues were resolved. In view of the number of complaints received by the Ombudsman, she initiated a study of the level of service being provided. The Ombudsman continues to monitor the situation.

In one case, a bride and groom who wished to marry before the required three days had passed after obtaining a marriage licence waited anxiously at the altar for four hours while their minister tried unsuccessfully to obtain a waiver number. In desperation, the minister contacted the Ombudsman, who resolved the matter immediately - and the wedding ceremony proceeded.

In another case, the Ombudsman assisted a social worker to obtain without delay a birth certificate for an elderly patient who could not be released into the community because he had no income. With the birth certificate, the social worker was able to assist in the application for Old Age Security and other benefits.

One other example: a Vancouver couple graduating from an American university were concerned that they might not be able to cross the border to attend the ceremony because their daughter's long-awaited birth certificate had not arrived from the Registrar General. They asked the Ombudsman for assistance. The Registrar General agreed to send the certificate by courier, and the family attended the graduation ceremony.

**W**hen just the complications of life create difficulties in coping with government procedures, the Ombudsman can sometimes make the going easier.

The E family had been in another city while Mr. E took a training course. Although they had saved up money for their return to their home town, when the time came, the family encountered a long string of bad luck which left them in dire financial straits. Unable to find affordable housing, they took up residence in a one-room motel unit. They called the Ombudsman because they felt it was unreasonable they could not get subsidized housing since their name had been on a waiting list for two years.

The Ombudsman's investigation revealed the E family had been referred to another agency for placement in a four-bedroom unit, but the agency did not have the family's address or any information about their current circumstances. Within a very short time after this information was provided, the family was offered suitable subsidized housing.

# 4

## *Failure to adhere to its own processes, guidelines and policies, or to apply them in a consistent manner*

**W**hen personal circumstances and administrative decisions combine to make a situation untenable, sometimes the Ombudsman can encourage a governmental organization to provide significant cooperation.

Ms. L came to one of the Ombudsman's district offices when the Housing Authority initiated eviction proceedings against her because of rent arrears. It seems that Mr. L had recently left the home.

Ms. L believed the eviction was unfair, since she had tried to apply to the Housing Authority for housing for herself and her three children under the Special Priority Policy for Assaulted Women. She also felt the Housing Authority's failure to take into account her current circumstances and its refusal to enter into a lease agreement with her alone was unreasonable.

The Ombudsman intervened, and the Housing Authority agreed to stay the eviction. After further discussions with the Authority and the Ontario Housing Corporation, Ms. L was granted a lease in her own name.

**T**he Ombudsman can sometimes encourage a governmental organization to use its power to resolve an issue.

Ms. A, the owner of a small apartment complex, was frustrated with the lack of progress in negotiations with the company which had contaminated the well which provided water to the tenants in her building. The water quality had deteriorated to the extent that the apartment building could not be rented for a considerable time. Although the company accepted responsibility for the contamination, it differed with Ms. A with regard to the best method of remedying the situation and the amount of compensation to be paid to the owner. Ms. A was unable to find assistance in resolving the problem, and she called the Ombudsman.

The Ombudsman looked into the matter, and found that the Ministry of the Environment has responsibility for problems involving the contamination of water sources.

The Ombudsman convinced the Ministry that it should utilize legislation available to it to ensure the situation was corrected and

that adequate compensation was provided. When the company saw the Ministry was likely to proceed, it made a proposal which Ms. A considered satisfactory.

**T**he Ombudsman's investigation may find that a governmental organization reached its decision properly.

Mr. Y was dissatisfied with a decision of the Rent Review Hearings Board to uphold an order of the Minister of Housing directing him to pay a rental rebate to his tenant for excess rent charged over a four-month period. He believed that since the tenant had signed a lease to pay a monthly rent of \$500, he should not have to pay a rent rebate.

After investigation, the Ombudsman found that the Residential Rent Regulation Act, 1986 stipulates that the legal monthly rent applies despite any other agreement to the contrary. The Ombudsman informed Mr. Y that the Board was not unreasonable in upholding the Ministry's decision to award a rental rebate.

**T**he Ombudsman's involvement can result in finding new options which form the basis for a negotiated settlement of the dispute.

Mr. S and Ms. R were employed at a Technology Centre which the government decided to close. They believed their settlement package did not reflect their circumstances when they were compared to other settlements.

The Ombudsman's investigation included a review of all settlement packages, and interviews were held with a number of the former staff. She found that although Ms. R was one of the first employees hired at the centre, she was given the same package as younger employees with less seniority.

Mr. S' circumstances were different. He contended he had not been properly advised that the Centre might not have a long life when he left a secure, long-standing position to take a job there. As he was approaching fifty years of age, he felt it would be difficult for him to find new employment at a senior level.

As a result of her findings, the Ombudsman recommended that settlements for both Mr. S and Ms. R be increased appropriately. The Ministry agreed to add an additional month's pay, with interest, to each settlement package. The Ombudsman considered this to be an adequate resolution.

**W**hile the Ombudsman does not take an advocacy role with respect to individual cases, she is an advocate for the highest possible standard of administrative fairness and can often bring about change in the way things are done.

In many correctional facilities, inmates are provided with "protective custody" to ensure their safety by keeping them separate from other inmates in the institution.

Three inmates in protective custody in one institution complained to the Ombudsman that they were required to be in the general inmate population at regular meal times in order to get their food. They felt this practice endangered their safety.

The Ombudsman brought the practice to the attention of the facility superintendent who acknowledged a problem existed. The practice was changed, providing a remedy not only for those inmates who complained, but for future protective custody inmates.

**The Ombudsman  
may discover a  
governmental organi-  
zation has made  
errors in application  
of policy and/or  
in the consideration  
of evidence.**

Mr. S was convinced he was being unfairly denied eligibility to Workers' Compensation benefits with respect to a psychiatric disability. He maintained his conviction even though he had been turned down both by the Compensation Board and the Appeals Tribunal. He wanted the Ombudsman to look into the matter.

The Ombudsman reviewed the decisions and found errors in application of the Board's policies and in the Tribunal's consideration of various items of evidence. When the Tribunal considered the tentative recommendations of the Ombudsman, it ordered a new hearing to reconsider the matter.

**E**ven an informal resolution of an individual's complaint can bring about wide-ranging remedial action which can benefit many others.

Mr. S expressed concerns that he and other inmates working as cleaners at a Correctional Centre were not being provided adequate protective equipment and safety training.

The Ombudsman initiated discussions with the Centre. Its administration agreed to put in place a training program for inmate cleaning crews. The Ombudsman is monitoring this commitment.

**T**he Ombudsman's intervention can cause a governmental organization to re-examine its policies and procedures.

Ms. C contacted the Ombudsman on behalf of her father, who had recently vacated an apartment rented from the local Housing Authority. A carpet had been left behind on the understanding that if the new tenant was unwilling to buy it, the family would remove it. It seems that the Housing Authority did not advise the new tenant of this detail and a stalemate ensued.

There was another matter. During the family's efforts to obtain payment, it discovered the new tenant had moved into the apartment 15 days before the effective vacancy date, but Ms. C's father had not received any rebate.

After informal inquiries by the Ombudsman, the Housing Authority agreed to the rebate. It also agreed to clarify to the new tenant the matter of ownership of the carpet, and to facilitate negotiations regarding its purchase or removal. To prevent this sort of situation from harming tenants in the future, the Housing Authority altered its transfer forms to call attention to all its staff the issue of carpeting.

# 5

## An Inadequate or Improper Investigation was Conducted

**A** complainant may ask the Ombudsman to investigate whether a governmental organization adequately dealt with an earlier complaint.

Mr. B contacted the Ombudsman, stating that the Ontario Human Rights Commission had not properly investigated his complaint that his employer had discriminated against him when he was fired because he had tested HIV positive.

The Ombudsman investigated all of Mr. B's contentions and found that not all of them could be fully supported. However, the Ombudsman found that certain matters raised had not been addressed by the Commission, and that in general, its investigation was inadequate. The Ombudsman also expressed concerns that the Commission had not met personally with Mr. B in the initial investigation.

When the Commission indicated it did not agree with the Ombudsman's conclusions, the Ombudsman issued her formal findings with recommendations that the Commission issue an apology to Mr. B. She also recommended that in recognition of Mr. B's loss of opportunity to come before a Board of Inquiry, the Commission pay him \$3,500 as partial compensation.

After a series of meetings the Commission issued an appropriate apology and offered to pay \$5,000 to an AIDS awareness agency of Mr. B's choice.

**A**lthough the Ombudsman does not cause a tribunal to change its decision, she may be able to recommend a new hearing be held.

Mr. T was employed by a mining company in northern Ontario for nearly forty years. At the outset of his employment, he worked underground laying track, using high-frequency vibratory tools. When he was diagnosed as having White Finger disease, he applied for Workers' Compensation. His application was denied, and his appeals to the Workers' Compensation Appeals Tribunal were rejected. He asked the Ombudsman for help.

The Ombudsman's investigation included obtaining further information from Mr. T's co-workers during the period in question, as well as having him examined and tested by a leading specialist in White Finger disease. The new information obtained during this investigation was provided to the Tribunal.

The Tribunal agreed to hold a new hearing before a new Panel.

# 6

## Failure to Keep A Proper Record

**S**ometimes the Ombudsman can penetrate the impersonal world of computer-made decisions to restore fairness.

### Computer Decisions Case #1:

Mr. U called the Ombudsman's district office in his area because his Workers' Compensation cheque had been withheld to cover an overpayment.

The Ombudsman investigated, and found that in fact, the worker had arranged for small monthly deductions to cover the overpayment. However, this information had been improperly entered into the Compensation Board's computer, resulting in the entire amount being deducted before the computer came upon the data that a repayment plan had been agreed to. As a result of the Ombudsman's intervention, a new cheque was issued for Mr. U to pick up the same day.

### Computer Decisions Case #2:

Mr. J complained to the Ombudsman that after nearly three months of contract employment in northwestern Ontario with a governmental organization, he had yet to receive a regular pay cheque. Pay for overtime, promotion to a higher position, and other payroll problems were also at issue. He had been told the problem was the result of "computer glitches".

In discussions with the organization, the Ombudsman learned other employees were also affected by the same situation, caused by the inability of Toronto staff to log correct information in its payroll computer system. After five days, the Ombudsman was informed the problems had been corrected, and Mr. J would receive his regular cheque as scheduled.

**I**n some cases, the Ombudsman can obtain resolution of an issue in a matter of hours.

Mr. T contacted the Ombudsman after learning his former spouse had not received her support payment from the Support and Custody Enforcement Office (SCEO), even though he had provided that office with a series of post-dated cheques.

The Ombudsman inquired, and as a result, SCEO staff searched

and located the misplaced cheque. The problem was resolved in less than three hours.

**S**ometimes the Ombudsman is called upon to investigate losses of personal property in provincial correctional facilities with a view to recovery or provision of compensation.

### Example #1:

Mr. Y asked the Ombudsman for assistance when he found personal property missing after he was moved to another correctional facility.

When the Ombudsman asked the facility for comment, it replied that it accepted liability for the loss of the personal property. Mr. Y was satisfied with the compensation arrangement which was worked out.

### Example #2:

Mr. A complained of missing property after a transfer, and asked the Ombudsman to investigate.

The Ombudsman found that the Ministry did not have a method of distinguishing between property given personally to an inmate on transfer, and that which was put into a property bag to be transferred to the new facility. The Ombudsman recommended that the Ministry develop a policy so this difference in custody of the property could be recorded. The Ministry accepted the recommendation.

### Example #3:

Mr. R was transferred a number of times to and from three institutions. Each time, he was asked to sign a paper which he said he was not allowed to review. Later he discovered that at some point, a number of valuables had disappeared. When he complained, he was told the papers he had signed confirmed he had received his property in good order. Mr. R asked the Ombudsman for help.

After the Ministry conducted its own preliminary investigation, it acknowledged the losses and negotiated compensation. The Ministry's Investigation and Security Branch also opened an investigation into the question of the manner in which the receipts were presented and signed.

### Example #4:

Mr. K was transferred from one jail to another in Metropolitan Toronto, but his identification, credit card, a gold ring and \$360 had remained behind. He called the Ombudsman. The Ombudsman's inquiry resulted in the missing property being promptly delivered to Mr. K's new facility.

**T**he Ombudsman often can help to bring about a resolution to a long-standing disagreement with a governmental organization.

Ms. O, an employer, contacted the Ombudsman after years of problems and correspondence with the Workers' Compensation Board in an effort to resolve difficulties with her account. The Board admitted there had been "a collection of unfortunate errors and delays", and it agreed to reverse numerous charges and penalties incurred up to May, 1989. Ms. O paid the assessment, but she refused to pay the late payment charges which accrued between May 1989 and the present time. She felt any "late payment" was the result of the Board's own errors, and furthermore, that the amount assessed was inaccurate.

The Ombudsman entered into discussions with the Board. Although the Board continued to feel that the charges were justified, it agreed to withdraw them as a result of receiving accurate information pertaining to actual earnings for 1990.

**T**he Ombudsman takes corrective action when governmental organizations fail to follow their own procedures.

When the Ontario Municipal Board approved the establishment of a home in Mr. L's neighbourhood for persons who had been psychiatric patients, Mr. L contacted the Ombudsman. He felt the Board had not considered what he felt were negative impacts of the home's presence.

The Ombudsman investigated, and found the Board had handled the matter correctly, and that its final decision was not unreasonable. She informed Mr. L she could not support his concern.

However, during the course of the investigation, the Ombudsman noted that the Board member conducting hearings had not reported in his decision or the hearing witness sheet the names of all of the witnesses who gave evidence. As a result, it could appear to the public that either witness testimony was being disregarded, or that witnesses were not being heard. In raising this matter with the Board, the Ombudsman noted that this could raise questions about the Board's fairness, and that legal challenges could be raised.

The Chair of the Board replied to the Ombudsman that he had informed Board members that they must accurately record the names of all witnesses so as to assist in ensuring that all witnesses at a hearing would be sent copies of the Board's decision.

.....

*Sometimes  
nothing seems  
to go right  
with what  
happens to be  
a simple  
matter,  
and the  
Ombudsman  
is called to  
get matters  
straightened  
out.*

.....

### Example #1:

Mr. I always celebrated his birthday on July 4, but when he applied for a birth certificate from the Registrar General, it came back with July 7 as the date of birth. Mr. I researched hospital records, and sent the Registrar General photocopies of the documentation which proved he had been born July 4. He was told that if he would send back the inaccurate birth certificate, a new birth certificate would be provided at no cost.

Mr. I complied and indeed received a new certificate. However, it again had his birthdate as July 7. In frustration, he called the Ombudsman. The Ombudsman made inquiries, and a new and correct birth certificate was immediately forwarded to Mr. I.

### Example #2:

Ms. G was refused a new driver's license because the Ministry of Transportation claimed her license was under suspension because of an outstanding claim against her since 1967. It seems her former spouse had been involved in an accident in that year in a vehicle registered in Ms. G's name.

The Ombudsman inquired, and determined there was no outstanding claim. However, it would take six weeks before this information would find its way into the Ministry's computer system to clear the way for the new license which Ms. G urgently needed. The Ombudsman inquired again, and Ms. G was able to obtain her license the next day.



**Failure to provide  
sufficient or proper notice**

**I**n many cases, the Ombudsman is asked for help when a governmental organization does not provide adequate notice to individuals affected by a decision.

Ms. Z missed a hearing held by a Ministry because she didn't know the hearing was to take place. She believed it unfair that she had not had the opportunity to present her point of view and to dispute the proposed action. She appealed to the Ombudsman for assistance.

The Ombudsman discovered that while the Ministry had advertised the hearing, the newspapers it had selected for its advertisement did not have general circulation in the community closest to the affected area. A widely-circulated weekly which carried public notices by local municipalities had not been used at all. Other

property owners in an adjacent township who also were affected by the outcome of the hearing had been served personally with a notice of the hearing.

When the Ministry considered the Ombudsman's preliminary findings, it agreed to provide Ms. Z with \$1,000 so she could obtain an expert opinion. The Ministry also agreed to reopen the matter if Ms. Z provided evidence that called its decision into question.

**P**art of administrative fairness is the provision of accurate and complete information regarding criteria used by governmental organizations to make decisions.

The Ombudsman was contacted by Mr. J, a representative of a non-profit organization in Northern Ontario because he believed the Lotteries Branch of the Ministry of Consumer and Commercial Relations had failed to advise the organization of the criteria used to process an application for a licence to have a raffle at an annual event, and to advise it in a timely fashion.

The application had been filed in April, but it was not until late July that the Lotteries Branch replied that the organization had not met the criteria for a licence to be granted. The annual event was only a month away, and there was no possibility then that the licence could be processed in time.

The Ombudsman made inquiries, explaining the circumstances, and suggested the revised application be reviewed as quickly as possible. The Lotteries Branch issued a licence the same day.

**T**he Ombudsman was contacted when the decision of a Housing Authority rejecting an application was received when the deadline for appeals had almost passed.

When Mr. Y was making plans for his release from a correctional facility, he made application for housing to a Housing Authority. The Authority rejected his application, and advised him he could appeal the decision within ten days, using a form enclosed with the rejection notice.

The problem was that Mr. Y received the notice only three days before the appeal deadline, and even then, the form which he needed for the appeal had somehow not been enclosed with the notice. He asked the Ombudsman for assistance.

The Ombudsman contacted the Housing Authority, which agreed to waive the deadline. The required form was provided promptly.

# 8

## *A decision or policy has an adverse impact or discriminatory consequence for an individual*

**S**ometimes a complaint results in a change of policy affecting similar situations, as well as being resolved satisfactorily for the individual involved.

A transsexual person in custody who was receiving hormonal treatment complained about body searches by male correctional officers.

The Ombudsman investigated and found that while the Ministry had made arrangements for transsexual persons to be placed in a protective environment, it had not developed appropriate policy or guidelines for staff conduct with respect to these persons.

The Ministry agreed to follow the Ombudsman's suggestion that appropriate arrangements be made for body searches of transsexual persons in its custody.

**A** Muslim inmate in a Northern Ontario jail called the Ombudsman because his diet did not permit him to comply with his religious beliefs.

Mr. P complained to the Ombudsman that the diet of the correctional facility where he was an inmate did not meet his religious requirements.

When the Ombudsman's officials discussed the matter with Ministry and institutional staff, they were informed that no suitable food items were available in the local community. However, when contacts were made with local hospitals and hotels as to how they handle requests for a diet which meets Muslim standards, they reported there was indeed at least one store which could meet these special dietary needs.

This information was passed to the Ministry which agreed to supply Mr. P with a diet which met the requirements of his religious beliefs.

**T**he Ombudsman makes every effort to provide services in the language of choice - and sometimes the complaint concerns a governmental organization which did not do the same.

When Mr. O was placed on probation, he requested French language services. The probation officer decided that Mr. O could speak adequate English, and did not pursue Mr. O's request.

Unfortunately, Mr. O and the officer each had a different interpretation of the probation order - half of which was in English and half in French - and because of the language problem, Mr. O could not adequately explain his point of view. He called the Ombudsman, and in French, explained the problem.

The Ombudsman contacted the Probation Service's area manager, who looked into the situation. He reported that Mr. O was quite correct in his interpretation of the probation order, and that French language services would be arranged.

**T**he Ombudsman's intervention may encourage a governmental organization to accept a solution to a problem which has been proposed by a client.

Three times someone using Ms. N's lost identification had obtained a driver's license in her name from the Ministry of Transportation. She wanted the Ministry to issue her a new licence number to prevent a reoccurrence of the problem, but the Ministry did not respond to her suggestion. She considered this to be unreasonable and she contacted the Ombudsman.

The Ombudsman wrote to the Ministry explaining the problem and setting out the proposed preventative measure. The Ministry agreed. Ms. N received a new licence number.

**W**hen an inmate's glasses had been confiscated, the Ombudsman was helpful in obtaining their return.

Mr. M complained to the Ombudsman that the prescription glasses he required had been confiscated and staff at the correctional facility where he was confined would not return them. He also was concerned that before the glasses were impounded, the frames had been broken accidentally while he was asleep and he did not have funds for the repairs.

The Ombudsman made informal inquiries with the medical unit at the institution. It reported that the glasses had been confiscated for Mr. M's own protection after he had been diagnosed as psychotic and was placed in segregated facilities.

However, in reviewing the files, the medical staff discovered it had been determined Mr. M was no longer psychotic, and therefore there was no longer any reason to withhold the glasses. A health worker volunteered to retrieve the glasses and to have them repaired at no charge to Mr. M. Within two days, Mr. M had his glasses back.

**T**he Ombudsman is able to look for natural justice as well as legal justice in determining if the action of a governmental organization was "unfair".

Mr. W was dismissed as an employee of a governmental organization. After losing all formal methods of appeal, he petitioned the courts to overturn his dismissal. The court expressed sympathy for Mr. W's situation, but it ruled it was not able to overturn the dismissal. Mr. W turned to the Ombudsman.

The Ombudsman's investigation revealed that the disciplinary action taken was much more severe than other actions taken both before and after the incident. She recommended the governmental organization institute a number of precautionary measures to ensure that a similar situation did not recur. She also recommended that Mr. W be provided compensation.

The governmental organization had already taken a number of measures to prevent Mr. W's situation from happening again, and it agreed to implement the recommendation regarding compensation.



# The Ombudsman may look to the government's own policy statements to determine if a governmental organization has made a fair decision.

Mr. M is a person with quadriplegia who wanted to remain in the community. The Ministry of Community and Social Services was providing attendant care services through various service providers to support that decision, but there were constant administrative procedures for renewals and substantiation of need. Mr. M wanted the way cleared by having an Order in Council passed. When the Ministry denied his request, he went to the Ombudsman.

The Ombudsman's investigation found that the services offered Mr. M were inadequate and not in keeping with *Strategies for Change: Comprehensive Reform of Ontario's Long Term Care Services*, a policy statement which outlines the manner in which the government is committed to reforming long-term care services to people who are elderly and/or disabled.

The Ombudsman recommended that the Ministry devise a means to provide adequate attendant care to Mr. M on an on-going basis in a manner which was not administratively burdensome. The Ministry agreed to fulfill the Ombudsman's recommendation.

**A**lthough an Ombudsman may not be able to support a specific complaint, her intervention may lead to a policy change which remedies an unfair policy.

Ms. T felt a Housing Authority was unfair when it refused her request on medical grounds for a transfer from her one-room apartment to a one-bedroom apartment, and she asked the Ombudsman to investigate.

The Ombudsman's investigation did not substantiate Ms. T's need to have a larger apartment on medical grounds. The Ombudsman also found that the Housing Authority had reviewed Ms. T's case properly.

However, during the course of her investigation, the Ombudsman discovered a policy which permitted 60-year-old persons who do not live in public housing to qualify automatically for one-bedroom apartment units, while it demanded that persons reaching age 60 who were already in public housing prove medical need in order to obtain a larger unit. She informed the Housing Authority this policy was improperly discriminatory.

The Housing Authority agreed to change its policy so that persons who have reached 60 years of age could apply for a one-bedroom apartment regardless of medical need.

**S**ometimes the Ombudsman finds a governmental organization cannot resolve a problem because it is bound by agreements with third parties.

Mr. C wanted to purchase additional credit with a provincial government organization's pension plan to cover a period of prior employment. However, he was informed that his pension plan had a rule that all such purchases had to be for a minimum of one year, and Mr. C fell short by one month. He considered the restriction to be unreasonable, and asked the Ombudsman for assistance.

The Ombudsman's investigation disclosed that the rules were the product of negotiation between the government employer and the employees' union and therefore the governmental organization could not unilaterally change the rules for Mr. C's convenience.

The governmental organization agreed with the Ombudsman's suggestion that the inflexibility of the rule be discussed with the union with a view to revising it.

# 9

## Misleading or Wrong Information is Provided to an Individual Which Consequently Places the Person at a Disadvantage

**T**he Ombudsman can sometimes refer a person to an official who can assist in obtaining a prompt resolution of a problem.

When Mr. P changed his residence to a different neighbourhood, he was advised by the Public Utilities Commission that the hydro would not be turned on since money was owed by the previous tenant. He called the Ombudsman.

The Ombudsman's staff referred Mr. P to an advisor in the Ministry of Municipal Affairs. One hour after Mr. P made the contact he received a call back to advise him that the power had been re-stored at his new address.

**S**ometimes the Ombudsman can assist in having a government office implement a government policy which at the local level is unknown or is being disregarded.

Mr. K took a \$90 cheque written in the French language to a private issuing office of the Ministry of Transportation to renew his licence plates. He was advised that the cheque was not acceptable because it was written in French. He called the Ombudsman for assistance.

The Ombudsman contacted the Ministry directly. It immediately directed the error be corrected. The local office accepted the cheque and issued a written apology to Mr. K for the situation.

**T**he Ombudsman may be called upon for assistance when the complexities of a situation involving a governmental organization seem just too much to be sorted out.

When Ms. H took the Emergency Medical Care Assistant Program at a community college, she completed all requirements except for failing to obtain a required English credit. She moved to another city, and there she obtained the required credit from

another college. This information was sent to the first college, which verified to the Ministry of Health that Ms. H had completed the Program.

However, when Ms. H applied to take the Ministry's exam for certification, she was told the Ministry had no proof she had completed the course, and she would have to wait six months for the next scheduled exam. To add to the confusion, on the day of the exam, Ms. H was contacted by the Ministry to find out why she had not shown up for testing! She asked the Ombudsman to assist, since she could not afford to miss employment opportunities during the six-month wait.

When the Ombudsman investigated, the Ministry said the confusion had arisen because the information received from the college had arrived by fax, and that authentic copies had not followed.

The Ministry admitted there had been some miscommunication and advised that a special exam would be scheduled for a small number of students whose extraordinary circumstances caused them to miss the regular exam. Ms. H wrote her exam a month later.

# 10

## Failure to Monitor or Manage an Agency for Which a Governmental Organization has Responsibility

**T**he Ombudsman sometimes helps to ensure that a governmental organization ensures that its delegated authority is properly carried out.

Mr. D completed both the practical and theoretical exams for the EMCA certification, but was then informed by the Ministry of Health that his exams could not be marked, released or appealed since when he took the exams, he had not completed the Ambulance and Emergency Care Program. It said the community college administering the exams had the responsibility to ensure those who took them were qualified to do so.

Mr. D considered this unfair, since the Ministry had accepted his application and exam fees and informed him he was ineligible only after he had taken the exams. The application form did not state candidates must successfully complete the Program prior to registration, and the Ministry contended dissemination of this information

was the college's responsibility.

It seems there were two problems which had kept Mr. D from completing the program. First, the college had refused to recognize Mr. D's 500 hours of paid field experience with an ambulance service and his 2,500 hours of paid work as a fulltime hospital attendant, maintaining that only volunteer experience would be considered as fulfilling a course requirement. Second, one required course, Legal and Ethical Issues, would not be offered until some later date because the Ministry had made changes resulting in a restructuring of the program.

After Mr. D contacted the Ombudsman for assistance in sorting out the problems, the Ombudsman engaged in many discussions with the Ministry. It eventually acknowledged that the College was essentially acting as its agent, and the Ministry remained responsible.

The Ministry agreed that in the future, both the College and the Ministry will clearly outline to all candidates that all prerequisites must be fulfilled before the exams can be written. The Ministry also rescheduled exams to early autumn to allow more time for processing applications.

As for Mr. D, his examinations were promptly marked and released, and he went to work as a full-time ambulance attendant.

---

---

**When it is not clear  
which governmental  
organization is responsible  
for resolving a problem,  
the Ombudsman  
may bring attention to  
the situation and  
encourage an interim  
solution until  
the larger problem  
is sorted out.**

Mr. D complained in 1988 that inmates taken to court for hearings were not receiving noon-time meals; the local municipality said that wasn't its responsibility. The Court administrator said it wasn't his responsibility. The Ministry of Correctional Services said it wasn't its responsibility.

In 1989, the predecessor of the current Ombudsman determined that the Ministry of the Attorney General was responsible for ensuring that inmates are provided with meals when they appear in court. However, no response was forthcoming from that Ministry. When a new Ombudsman was appointed, she formally sent her recommendations to the Ministry.

In 1992, the Ministry of the Attorney General reported that discussions are under way with six Ministries to determine who will have long-term responsibility. Until a decision is reached, the Ministry of the Attorney General has agreed to ensure that meals are provided to prisoners in court holding cells in locations where police forces will not pay for this service.

11

*Insufficient Reasons for Decision,  
or No Reasons Given*

**O**ften people are not aware of the manner in which decisions are reached; sometimes the Ombudsman can satisfy concerns by demonstrating that in fact a matter has received careful analysis and consideration.

Three retired employees of a large company complained to the Pension Commission of Ontario that the special retirement packages which each had been offered were inappropriately inconsistent with retirement packages offered to other persons. When the Commission reported there was nothing improper with the inconsistencies, they asked the Ombudsman to review the matter.

The Ombudsman investigated and found that the Commission's review had been thorough in determining that the company had followed the pre-established criteria for each pension package, and had no discretion as to which employees qualified. In fact, the Commission noted the company had enhanced the package to make the incentive to retire more attractive. The Commission could find no violation of pension legislation. The Ombudsman confirmed that the Commission had reported its findings to all concerned, and had given each party an opportunity to respond.

As a result of these findings, the Ombudsman concluded the Pension Commission had fulfilled the requirements of the legislation in arriving at its decision.

**A** principle of administrative fairness against which the Ombudsman measures an agency's action or omission is that persons have a right to be informed promptly of a decision which affects them and to be given sufficient reason as to why the decision was made.

A group of Ontarians interested in the environment requested a project be designated under the *Environmental Assessment Act* as the subject of a legally-mandated review. However, the Ministry of the Environment did not respond directly to the significant concerns which the group had raised. They asked the Ombudsman to assist them.

The Ombudsman investigated and provided her preliminary findings to the Ministry. The Ministry then apologized to the group for the manner in which it had responded to their letters. It also provided a more comprehensive explanation of the rationale which it had used in deciding to reject the group's request. Information was also provided that a number of government bodies had already conducted extensive reviews of the group's concerns.

# 12

## Improper Personal Conduct or Mismanagement by an Official

**I**t is not always necessary for the Ombudsman to investigate for a governmental organization to take remedial action.

Mr. T complained to the Ombudsman about personal and unprofessional comments he said had been made to him by staff at a correctional facility when he was admitted.

The Ombudsman brought Mr. T's concerns to the attention of the Deputy Superintendent of the facility, who undertook to use the complaint as an opportunity to remind all staff of the need to conduct themselves in a professional manner at all times. Staff were advised that personal and unprofessional comments were unacceptable and would not be tolerated.

The Deputy Superintendent acknowledged that in all likelihood, Mr. T's complaint was valid. Consequently, a letter of apology was sent to him, and he indicated satisfaction with the serious manner in which his concerns had been handled.

**T**he Ombudsman can sometimes help resolve an issue which has been caused by poor communications or misunderstanding.

During her employment as a contract employee at a Ministry, Ms. U had received a satisfactory performance appraisal. When her contract expired, she applied for other jobs. Subsequently, she discovered that she had been denied a position on the basis of a reference given by her former supervisor at the Ministry. She asked the Ombudsman to look into the matter.

The Ombudsman's initial inquiries found that although the performance appraisal was satisfactory, it did contain comments which could be interpreted negatively.

The Ministry staff resolved the matter by providing a new more neutral written reference that the supervisor felt more closely matched her assessment of the worker. As a result of this cooperation, the matter was resolved promptly.

**S**ometimes during the course of the Ombudsman's inquiries or investigation, facts about an incident of administrative unfairness which is unrelated to the investigation at hand is discovered, and the Ombudsman's intervention results in appropriate action being taken.

During the course of looking into a complaint against a provincial correctional facility, a review of documentation showed that a Ministry supervisor recorded a racist remark on a report in an inmate's file.

The Ombudsman brought this matter to the attention of the facility's senior staff. As a result, the employee concerned was counselled and disciplined.

**W**hen Ms. L received the Ombudsman's assistance, officials took action to ensure an existing policy was correctly followed in the future.

Ms. L complained that she had been strip-searched by a female correctional officer when she was being processed for release. She believed such searches were done only upon entry, and she complained to the Ombudsman.

The Ombudsman's investigation found that the officer had not understood the correct procedures. A letter of apology was sent to Ms. L, and the facility instituted a new staff training program regarding the proper manner to deal with similar situations.

# NON

The legislation giving the Ombudsman her mandate gives her investigative powers only with respect to matters involving provincial government organizations.

# PROVINCIAL

However, often people call the Ombudsman about other categories of problems.

It is the Ombudsman's policy that if she cannot help a person asking for her assistance, that person should be referred, if possible, to a place where help can be obtained.

# INQUIRIES

Sometimes, the Ombudsman's staff can provide direct informal assistance. Examples of such situations follow.

## —1—

### Problems with the Gas Company

During an extreme cold snap, Ms. N called the Ombudsman in desperation because she had gone in person to the gas company to pay \$404 in arrears after service had been terminated, and the company said she would have to wait two or three days for service to be restored.

The Ombudsman's staff called the gas company to explain there were two children with the flu. The company explained it had been inundated with requests for restoration of service. The next morning, however, the company restored service to Ms. N's home.

## —2—

### Problems with UIC Benefits

Mr. H had applied for unemployment insurance benefits, and while waiting for his benefit cheque to arrive, he required general welfare emergency assistance. However, three weeks later, neither UIC benefits nor welfare had been received. Mr. H called the Ombudsman for help.

The Ombudsman's staff made informal inquiries to the local welfare office, and the same day, Mr. H was able to pick up an emergency cheque.

## —3—

### Problems of a Widowed Father

Mr. G had recently been widowed, and was having difficulties paying for necessary day care for his two young children while he attended a retraining program. He had unsuccessfully tried to find out what he needed to do to obtain assistance, and each week, his financial problems were mounting.

After Mr. G contacted the Ombudsman, her staff made several contacts which resulted in his children being admitted to a day care centre with costs subsidized so he could afford the program.

## —4—

### Problems with a Canada Pension

Ms. D said she was very depressed when she came to the Ombudsman's office – she didn't know who else to turn to. She had spent a few years in Italy, and on her return to Canada, she made a Canada Pension Plan application. Her efforts to reach the CPP office were unsuccessful.

The Ombudsman's staff managed to find the CPP worker in charge of Ms. D's file – she had thought Ms. D was still in Italy. She was provided with Ms. D's Ontario phone number and called her directly. The problem was resolved.

## —5—

### A Problem with a Hydro Company

Ms. V, a single mother, called the Ombudsman because for reason of non-payment of her account, her hydro supply had been cut-down to the point where neither her stove nor furnace would work. She had received no notice of this measure, since her former spouse had been intercepting her mail and she was unaware her account had not been paid.

Staff contacted the local hydro company, advising it of Ms. V's offer to pay \$100 in cash and to provide a post-dated cheque for the balance owing. The hydro company accepted the offer, and a crew restored full power the same afternoon.

# II

## SPECIAL INVESTIGATION:

### The Ontario Human Rights Commission

Over the past several years, an increasing number of persons asked the Ombudsman to investigate what they considered to be excessive delay by the Ontario Human Rights Commission in dealing with their complaints of discrimination. The Ombudsman decided the problem could not be resolved on an individual basis and opened a comprehensive investigation.

The scope of the investigation included consideration of the Commission's general complaint-handling processes, and internal strategies for dealing with its backlog and case management problems.

Preliminary conclusions were reached by the Ombudsman in early 1990 that the Commission lacked the resources necessary to permit it to improve its ability to handle complaints in a timely manner; that the Commission had responded to recommendations of two management studies with ambivalence and even resistance, with the result that little progress has been made in implementing the recommendations; that despite reallocation of some resources, the delay problems ranging from twelve months to four years persisted, with the period between registration and service of complaints averaging 140 days. Because of these tentative findings and the possibility that the Ombudsman might support the complaints investigated, she asked the Commission if it wished to make representations.

On June 16, 1990, the Ombudsman met with the Chief Commissioner and the Commission's Executive Director. On the strength of representations that a new case management plan would address the outstanding problems and that a special task force was to deal with 200 of the most delayed cases, the Ombudsman agreed to monitor the Commission's progress until the end of 1990.

In October, 1990, the Commission was advised that additional persons had asked the Ombudsman to investigate their concerns about delay in the Commission's processing of their complaints.

The Commission was also advised the Ombudsman would extend the monitoring period until March 31, 1991.

The monitoring activities revealed that only six of the delayed cases had been closed. No further representations were made by the Commission to the Ombudsman. In the meantime, still more persons complained to the Ombudsman with respect to delays in the Commission's dealings with them.

The Commission was advised by the Ombudsman on March 14, 1991, that as a result of the monitoring, she had made tentative findings that the situation described by her a year earlier had not been improved appreciably. The Commission acknowledged that it was unlikely to meet the goals it has set for March 31, 1991, but that it felt its goals for 1992 could still be achieved.

On March 31, 1991, the Ombudsman made a tentative finding that excessive delay on the part of the Commission in commencing, conducting, and completing investigations of the 38 complaints was unreasonable. She found that the cases which had been brought to her attention were not atypical, and that they represented a pattern characteristic in many before the Commission. The Ombudsman also found that the initiatives which had been put in place by the Commission to address the problems of delay were inadequate. As a result, the Ombudsman concluded that the Commission was unable to enforce human rights adequately.

The Ombudsman also made a tentative finding that the Commission had been disturbingly unresponsive to her recommendations, and that the Commission's achievements were not sufficient to cause her to alter her tentative conclusions. She recommended that the Commission take immediate action to eradicate its backlog and rectify the inadequacies of its case handling procedures.

After these tentative findings were discussed with the Chief Commissioner as provided for in the *Ombudsman Act*, on May 3, 1991, the Ombudsman sent the final report of her findings and conclusions, together with recommendations, to the Chief Commissioner and to the Minister responsible for the Commission.

The Commission's response to the Ombudsman's recommendation was received June 3, 1991. In it, the Commission acknowledged that its inability to process complaints of discrimination without excessive delay equates to a failure in fulfilling an important part of its mandate. After careful consideration, the Ombudsman determined she was not satisfied with the Commission's response to her recommendations.

After a time for reconsideration and discussion had passed, the Ombudsman also determined to pursue the matter with the Premier, since the *Ombudsman Act* provides that before the Ombudsman can report to the Legislature on a matter, she must first give the Premier the opportunity to resolve it. The Premier was contacted on June 24, 1991.

Following a meeting between the Ombudsman and the Premier, the Government of Ontario agreed to take steps to respond to the Ombudsman's recommendations. Special measures to deal with the problem were taken, including increases in staff, development of improved case management procedures, and changes in the Board of Inquiry process. The Premier also agreed to review the Ontario Human Rights Code with a view to introducing legislation which would provide a more manageable system to enforce human rights. The Premier agreed to keep the Ombudsman informed of action and progress, and to make available monthly reports from the Commission.

The Ombudsman will review the matter in April, 1992, to determine the extent to which her further involvement is appropriate.

# III

## Statement on Jurisdiction

**T**he Standing Committee on the Ombudsman has asked that I consider whether any changes in the jurisdiction of the Ombudsman are warranted. I promised to give the matter some thought, and to provide a written reply. I am also providing it as part of this Annual Report so that the matter can receive wide discussion.

The current restrictions placed on the Ombudsman's jurisdiction are few in number, limited in scope, and narrow in interpretation. The Ombudsman Act provides in s.14(1) that the function of the Ombudsman's mandate is "to investigate any decision or recommendation made or any act done or omitted in the course of the administration of a governmental organization and affecting any person or body of persons in "his/her" personal capacity."

Restrictions on the Ombudsman's jurisdiction preclude the investigation of:

- judges or the functions of any court;
- deliberations and proceedings of the Executive Council or any committee thereof;
- any person acting as legal adviser to the Crown or acting as counsel to the Crown in relation to any proceedings.

Hospitals, universities, Children's Aid Societies, and municipalities are not currently considered to be governmental organizations within the meaning of the Ombudsman Act.

The courts have given a broad interpretation to the jurisdiction of the Ombudsman to investigate acts and decisions "in the course of the administration of a governmental organization" and have ruled that the Ombudsman's powers should be broadly and liberally construed. The Act gives the Ombudsman the authority to apply to the Divisional Court for a declaration on issues if any question arises as to whether the Ombudsman has jurisdiction to investigate any case or class of cases and if the Ombudsman thinks it fit to do so. I therefore have the opportunity to clarify judicially any questions with respect to the current jurisdictional parameters.

### Jurisdictional Variations Within Canada

The question of jurisdiction varies from province to province in Canada. The Ombudsman of Nova Scotia has jurisdiction over universities. Both New Brunswick and Nova Scotia have jurisdiction over municipalities and hospitals. All provincial Ombudsman except for Ontario and Quebec have jurisdiction over Children's Aid Societies or their equivalent.

In the Speech from the Throne by British Columbia's Lieutenant Governor on March 17, 1992, it was announced that the mandate of the province's Ombudsman would be expanded to

include actions by municipalities, regional districts, school boards, universities and hospitals.

The Committee on Institutions of the Quebec National Assembly recommended in November that the jurisdiction of the Public Protector be extended as a last recourse wherever there is reason to believe that in the exercise of an administrative function and employee of a school, school board, or one of its committees has violated the exercise or enjoyment of a right recognized by the Education Act. The Committee also recommended that the Public Protector Act be amended to permit the Public Protector to enter into agreements with the municipalities to enable them to voluntarily subject themselves to the jurisdiction of the Public Protector. Finally, it was recommended that the Public Protector be able to investigate the acts or omissions of any person to whom a governmental organization has entrusted the performance of duties assigned to it by law.

### Gaps in Access to an Ombudsman

There are areas of jurisdiction which involve the provincial government to a certain point where there is no Ombudsman-like institution to investigate complaints of the public about unfairness. It is not always easy to clarify for the public why these gaps exist. As my predecessor pointed out to the Standing Committee on the Ombudsman in 1986:

*"Why may the Ombudsman investigate a complaint from a student in a community college, but not from a student in a university?... Why may the Ombudsman investigate a complaint from a patient in a psychiatric facility operated by the province of Ontario, but not if that same patient suffering from the same psychiatric disability is in a psychiatric unit of a public hospital? Why may the Ombudsman investigate a denial of family benefits, but not a denial of general welfare assistance when both systems are totally funded by tax dollars and the guidelines and policies for both are essentially established by the provincial government?"*

The principal jurisdictional areas for which no Ombudsman service exists follow.

#### 1. Municipalities

In Ontario, the Ombudsman now has jurisdiction over the Ministry of Municipal Affairs and the Ontario Municipal Board, but not over municipalities. I received 1,677 inquiries and 375 complaints in this area in 1990-91 with respect to municipal organizations beyond my jurisdiction. They involve approvals of by-laws, lack of enforcement of by-laws, lack of services, inadequate services, etc. Municipalities offer such a wide variety of services and make so many substantial decisions that it is easy to understand many public concerns would arise naturally under the best of circumstances.

#### 2. Social Assistance

I am frequently asked to provide assistance (131 complaints and many inquiries last year) with respect to municipally-administered General Welfare Assistance. This programme is primarily funded by the provincial government in a cost-sharing arrangement with the federal government. Municipalities bear a minor portion of the costs. The Ontario public does not now have Ombudsman services with respect to social assistance except in respect to appeals of decisions of the Social Assistance Review Board.

### 3. Education

The Ombudsman already has jurisdiction over matters relating to community colleges and the Ministry of Education. Education is a provincial responsibility and governed by provincial legislation. While funding is derived from a municipal tax base, there is also provincial funding. In essence, the responsibility is delegated to municipal, regional, and other boards of education. While school boards are funded by a municipal tax base, an individual has very little real recourse if there is dissatisfaction with actions or omissions of elected trustees and superintendents.

### 4. Children's Aid Societies

In essence, Children's Aid Societies act as agents for the province of Ontario in providing child welfare services. They are funded, regulated, and supervised by the provincial government. While some Society decisions involve court orders, the substantial majority of their work has no judicial or external review, despite the fact that their decisions have far-reaching effects on the lives of families and children. Questions of fairness, adequacy and appropriateness of conduct, reasonableness of decisions, fair processes, etc., are decided basically on trust in the Societies' good operations. The Ombudsman now receives many inquiries about Children's Aid Societies.

### 5. Public Hospitals

There are several hundred public hospitals in Ontario which employ well over a hundred thousand employees and serve over a million residents of Ontario each year. Because of the institutional nature of a hospital and the need for care of patients, there is fertile opportunity for issues and concerns to arise. The Ombudsman already has jurisdiction over provincial hospitals.

### 6. The Ontario New Home Warranty Program

Persons dissatisfied with the administration of the Ontario New Home Warranty Program must appeal any decisions to the Commercial Registration Appeal Tribunal before the Ombudsman can be satisfied that all avenues of appeal have been exhausted. While the Ombudsman does have jurisdiction over the Tribunal, the majority of the complaints received last year dealt with matters occurring long before an individual can reach the Tribunal, and relate to the long delays and frustrating process associated with the Program.

#### Options for Filling the Gaps

There are a variety of options which could be explored if a decision were made to cover one or more of these gaps. One option would be for the agencies involved to provide their own version of Ombudsman services. Given the expense of assembling the considerable expertise needed for the operation of an Ombudsman's neutral and independent processes, however, it is understandable why small agencies scattered all over the immense geography of Ontario might find it difficult to provide these services on an individual basis, although this remains an option.

A second option for dealing with these complaints is to provide a mandate to a Ministry to deal with the concerns of the public. There is also an interim option which might be considered without legislative change. An entity might enter an agreement with the Ombudsman to provide services, and to subject itself voluntarily to my jurisdiction. Perhaps some provincial assistance could be provided to subsidize the costs. If several entities were to agree to enter

into such an arrangement, it would provide practical experience which would enable all concerned to determine the usefulness of Ombudsman services entities of a similar nature.

If this experience proved beneficial, then the services of the Ombudsman could be extended more broadly. The advantage of province-wide service is that it ensures a uniform standard and style of service throughout Ontario, avoiding inappropriate comparisons and challenges. The option of using existing Ombudsman services in new jurisdictional areas could also be varied by combining it with aspects of options one and two, with the Ombudsman having residual authority.

From a fiscal point of view, it is usually more economical to add to an existing operation than to create a new one. However, it is difficult to estimate the additional resources which might be required by the Ombudsman if jurisdiction were extended to include one or more of the above-mentioned areas. Some resources are already expended at the intake level responding to inquiries about these areas, understanding the complaint, determining jurisdiction or the lack thereof, and providing some measure of assistance through referral. While it is clear that an increase would be required, further study would be needed to determine the amount with any degree of certainty. One possibility would be to provide a volume-related increment to the existing base of resources already assembled by the Ombudsman.

#### Whistleblowing and the Ombudsman

Concern has been expressed recently about "whistleblowing", i.e., the complaint of public servants regarding a serious problem encountered in the course of their duties which they feel the government is not handling properly. The Ombudsman already has the ability to investigate complaints made by employees of governmental organizations. However, the Ombudsman does not have substantial enforcement power to protect the whistleblower from any negative actions taken as a result of the complaint. The Act does provide for action against anyone who may obstruct the Ombudsman in her investigations, but she has no way to protect an employee's job. While she could reopen her investigation and address the reprisal issues, and while she could recommend compensation for an employee who had been fired, she could not order whistleblowers to be transferred to another job or to be reinstated in their positions.

In Israel, the Public Complaints Commissioner may make any orders he deems right and just to protect a public servant who has exposed problems. The order may revoke dismissal or award compensation. The Commissioner may order the transfer of the employee to another post. Orders of the Commissioner are binding on any superior of the employee and the employee.

#### The Ombudsman and Administrative Tribunals

It is understandable that there are few organizations which relish external review. Administrative tribunals are reviewed by courts, and even courts have limited their own review power. Accordingly, there have been expressions of concern about the autonomy of various administrative tribunals in Ontario vis a vis the Ombudsman. Some tribunals have argued that they are quasi-judicial bodies, and therefore should be excluded from the Ombudsman's jurisdiction. Notwithstanding these concerns, the courts have held that the current legislation permits the Ombudsman to investigate both substantive and procedural decisions of a tribunal or administrative agency. In these investigations, the Ombudsman is interested in

determining whether a complainant was given the opportunity to present evidence, whether the decision reflects the evidence, whether fair procedure was followed, and so on. The Ombudsman has no power to overturn a decision.

The Ombudsman's ability to investigate administrative tribunals is an important measure toward ensuring that the quality of justice is upheld, that hearings are fair, that review mechanisms are effective, that procedures are in effect and are fair, that protections are adequate. Without the Ombudsman's involvement, those who could not afford to take legal action would have no alternative aside from courts for review as to whether a decision is unreasonable, unjust, oppressive, or improperly discriminatory.

The Annual Reports which I and my predecessors have tabled offer ample testimony that in Ontario there has been considerable call upon the Ombudsman to render services within the current bounds of jurisdiction. Those occasions have given many tribunals the opportunity to correct errors in individual cases and to make changes in policies and procedures which have provided greater fairness and efficiencies for future cases.

#### **Judicial Opinion on Jurisdiction**

In considering the limits of the Ombudsman's jurisdiction, it may be helpful to consider judicial opinion. When the Supreme Court of Canada had occasion to rule on sections of the British Columbia Ombudsman Act which set out the Ombudsman's jurisdiction, the Supreme Court said, "given their plain and ordinary meaning, (the sections) encompass virtually everything a governmental authority could do, or not do, that might aggrieve someone. It is difficult to conceive of conduct that could not be caught by those words... 'A matter of administration' encompasses everything done by government authorities in the implementation of government policy. I would exclude only the activities of the Legislature and the courts from the Ombudsman's scrutiny."

The Nova Scotia Court of Appeal has also broadly construed the Nova Scotia Ombudsman's jurisdiction: "The Act is surely concerned broadly with supervision of the performance of governmental functions in the broadest sense... We are concerned not with the administration of a law in a vacuum, but with how the department carries out its function of service, i.e., its impact on the public generally and on the aggrieved complainant in particular."

It is my hope that this information will be useful to the Committee and others in their considerations of jurisdiction for the Ombudsman of Ontario.

# **IV LEGISLATIVE ISSUES AFFECTING THE OMBUDSMAN**

## **Problems with Respect to Freedom of Information and Protection of Privacy Act**

**O**n October 23, the Ombudsman appeared before the Legislative Review Committee on Freedom of Information and Protection of Privacy regarding what she believed was an inadvertent oversight which undermines the confidentiality of the Ombudsman's process and puts two Officers of the Legislature, each with very laudable mandates, at odds one with the other. The problem has been caused by lack of clarity in their legislated mandates with respect to the other.

The people of Ontario are able to come to the Ombudsman with complaints and issues with the assurance that the matter will be kept confidential. Without this assurance, many members of the public will not come forward with their complaints, and government agencies will resist disclosing information to the Ombudsman. So this assurance could be given, the protection given in the Ombudsman Act is very broad. Confidentiality is a vital hallmark of an Ombudsman's work. In fact, the Ombudsman Act prohibits the Ombudsman or her staff from disclosing information which is received in their official capacities. The requirement to maintain confidentiality is so complete that under section 25(a) of the Ombudsman Act, neither the Ombudsman nor her staff can be called to give evidence in a court hearing.

That kind of privileged relationship is essential if the office of Ombudsman is to have the highest possible credibility with the people of the Province. Confidentiality is particularly important because the Ombudsman has also been given extremely broad

powers of investigation and an extremely broad mandate. With this in mind, broad confidentiality provisions become paramount.

The Information Commissioner was asked recently to determine whether the Ministry of Government Services should be required to disclose a document in its files which it had received from a previous Ombudsman, a document which he had relied upon in arriving at a tentative finding. The document had been provided to give the Ministry an opportunity to allow it to provide its comments, which is part of the usual process followed by the Ombudsman. Because the document contained some sensitive information, the Ombudsman of the day had expressly reminded the Ministry that documents provided to it must be kept confidential. Disclosure was sought some nine years later by a person who was not a party to the complaint, and who had not supplied information to the Ombudsman. The Commissioner released his decision in September, that according to terms of the existing legislation, the Ministry must disclose to the appellant certain portions of the Ombudsman's documents.

The Ombudsman considered it necessary to seek judicial review of this decision, considering the principle of privacy which is upheld by Ombudsman all over the world, and the power given to the Ombudsman in the Ombudsman Act to determine what information ought to be released.

In the meantime, the Ombudsman has been obliged to take extraordinary measures to ensure that information which she provides to governmental organizations remains confidential. No confirmation has yet been received from either the government or any member of the Legislature that amendments will be introduced to provide the Ombudsman with the ability to maintain the confidentiality required. The Committee reviewing the legislation declined comment since the matter is now under judicial review. Nonetheless, it remains open to the government to bring forward a Bill to address this problem.

# V

## From the OMBUDSMAN'S NOTEBOOK

(The Ombudsman is frequently invited to speak  
at Canadian and international meetings and congresses.  
These are excerpts from her statements.)

- Society of Professionals  
Involved in Dispute Resolution  
19th Annual International Congress,  
San Diego, California - October 17, 1991

"...While governments traditionally have become involved in assisting others to resolve their differences, increasingly government finds itself as a party in disputes with private interests... Governments are in severe need of instruments and attitudes which will help them to deal with issues and resolve them rather than simply manage them.

"...Cold dollars-and-cents analysis can help governments see financial advantages in choosing non-adversarial resolution as opposed to relying on expensive use of the courts... We can, I believe, demonstrate that a non-adversarial approach to conflict resolution and the involvement of government as a willing party does not undermine democracy - rather it enriches it by providing a vehicle for the kind of participation which people all over the world are demanding.

"Preventative Ombudsmanship can help government explore new ways of resolving issues. My hope is that Governments everywhere will realize that social policy issues, environmental concerns, labour disputes involving public workers to name but a few are critical areas which cry out for consensus building efforts which might sustain themselves beyond the life of any one Government."

- International Congress  
On The Experience of the Ombudsman,  
Mexico City, November 13-15, 1991

"...I am sensitive to the special problems which indigenous peoples - especially those of the Americas - have with respect to commissions and omissions of governments, including those which the world judges to have high standards of democracy. Indigenous peoples often face problems arising from geographical and cultural isolation, problems of both overt and unconscious racism and

discrimination, problems of language, cultural misunderstandings, and lack of awareness of rights, responsibilities, and process...

"One of the phenomena which we see worldwide is the new resurgence in ethnic pride. The ability of a nation to survive is increasingly being measured by its ability to be pluricultural, plurilingualistic - not just in folkloric terms, but as measured by genuine participation in the country's body politic.

"As Miguel Leon Portilla has observed, the world is engaged in a process of globalization while simultaneously dealing with an energetic process of reaffirmation of identity.

"This is fundamentally a two-way redistribution of power. As comfortable national sovereignty gives way to larger unions through international agreements entered into for mutual advantage, our human nature causes us to look to our cultural and religious roots in seeking a human-scale grouping in which we can express our identity and receive community support. Where nation-states can gracefully incorporate plurality, the redistribution of power is likely to be peaceful. Where there is unfortunate coercion to maintain the status quo, the redistribution explodes into unfortunate violence.

"History and current events alike show that no country may think itself immune from this process. The human struggle for empowerment knows no borders...

"As Ombudsman, we have the opportunity to assist in the removal of barriers to that process so that all elements of a nation's population can become full participants in the struggle for human rights and well-being. No nation can afford to exclude precious human resources from its drive to become competitive in the global economy. As we strive to reduce trade protectionism which prevents economic equality, we must be sure that our internal cultural protectionism also comes under scrutiny or the better tomorrow we envision will never come to be.

"If indigenous people are ever to be accommodated, we have to find new ways, new institutions, to approach this challenge. We must understand we are developing partnerships - it is not good enough for one side to offer to open its doors to let the other side in. We should not be afraid to be creative and to engage in experiment..."

- Eastern Ontario  
Municipal Conference,  
Kingston, Ontario  
October 3, 1991

"...I currently am receiving complaints about municipalities because the public brings them to me... I have to inform the people that I have no mandate in this area, although sometimes my staff is able to make a referral to some source of assistance.

"There are a variety of ways in Canada in which municipalities have Ombudsman services. In New Brunswick, municipal governments have been placed within the provincial Ombudsman's jurisdiction. The City of Winnipeg under a mandate to provide its residents with the services of an Ombudsman. One of the objectives for this move is to help residents develop methods of providing input into government, to help politicians and bureaucrats understand the value of receiving public input.

"There is the potential, of course, of a municipality having its own Ombudsman. Detroit, Michigan, took that route in 1974 at a time of great urban unrest as a measure to help restore the faith of the people in their municipal government.

"I would caution about the slippery slope of specialized

Ombudsman: it would mean the fire department would have its Ombudsman, the Health Department would have its Ombudsman, and so on.

"As well, although I do not own the word "Ombudsman" as if it were a registered trademark I would like to express my hope that any one termed an Ombudsman have the essential elements which historically have accompanied the title: they are independent of government with a long term of office; they report directly and publicly to the governing body, and they have investigative powers."

- "Choices" Career Resource Day,  
Brantford, Ontario  
April 19, 1991

"Our history books tend to concentrate their honour on the men who built Canada. The women are invisible - the women who cut wood and hauled water, who worked alongside their husband and children in the fields, the women whose labours at low wages added to the wealth of the nation, the women who sacrificed and sweated so their husbands could work outside the home - so many invisible women in the history of Canada who the country has yet to honour.

"Those sectors of Canadian society which have claimed sole ownership of the country for themselves have for years operated under a set of rules and assumptions which have guaranteed for themselves preferences and privileges. These preferences remain out of view to the degree that still today, their existence is often officially denied...

"Those who control and benefit from privilege may be genuinely bewildered by the fact that women seem to be continuing to be making demands.

"Their bewilderment comes largely from the fact that they have yet to come to terms with their own history, their own values and prejudices, with the sexism and racism and "able-bodyism" which is inherent in a system which has been built to protect all those "-isms".

"Until Canadians in general are able to transcend their history so they can face their future, they will find it nearly impossible to ensure that their institutions follow the values which they espouse."

- Annual Conference,  
Association of Canadian College  
and University Ombudsman,  
London, Ontario  
June 16, 1991

"When we look at the changes which the people of the planet have had to accommodate in your own lifetime, we can see the increased potential for dispute. Instant communication, new perceptions and definition of rights, breakdown in traditional structures, failure of institutions to meet their *raison d'être*, increased mobility and immigration - dynamic tensions have resulted which require adjustment...

"To complicate matters, our traditional means of resolving disputes are also involved in adjustment and are under stress...

"Our task is to convert these new adversarial situations into opportunities for conflict resolution which establishes a foundation for new cooperation and synergy as energies are focused on improvement rather than winning.

"One does not need a crystal ball to see there will be a drama-

tic increase in the need for additional methods to resolve disputes in the decade ahead, a need which will become a demand as we come to recognize that reliance solely on adversarial law and politics is counterproductive to our own well-being.

"We have to find new ways not only to resolve disputes, but ways to reconcile all factions whose conflicts disrupt the peace of our global village... In businesses, in government, in communities, and in higher education, Canada must devise new institutions and processes which take into account the dynamics and the distinct nature of the issues of the day."

- Select Committee  
On Ontario In Confederation,  
Ontario Legislative Assembly  
Toronto, Ontario  
August 8, 1991

"I find it difficult to respond to the list of questions supplied by the Committee. To deal with the details without having shaped the vision will leave us where we are now: faced with iron-clad parameters which do not leave us room to adjust and evolve and mature.

"It would be peremptory, even exclusionary, to deal with detailed questions until we have a shared national vision for the future, a vision which dynamically opens up space as space is needed in the years to come, space for all Canadians, individually and in collectives, to achieve their personal hopes and dreams.

"I firmly believe that such questions can only be answered after we have established a framework for the future which is able to accommodate fundamental changes which we might now be able to anticipate only vaguely, if at all. Only if we have an expanding, flexible framework can we escape our current purgatory of nation-building through crisis management...

"How much nicer it would be if Canada were able to adopt a Constitution which represented broad consensus on the principles, values, relationships, and institutions which Canadians wish to have as a foundation for their governments and laws. Certainly imposed solutions cannot be expected to result in harmony and cooperation even if a referendum decides that is the way to proceed..."

"One obstacle is the failure of Canada to face up to a transition dictated by current reality: the transition from a country which for decades considered itself as a God-given kingdom to be peopled sea-to-sea by one people of one race and one culture and one religion to a nation which is multi-cultural, multi-linguistic, multi-racial and with a population holding to a multiplicity of religious practices.

"Another obstacle which mitigates against consensus is the general absence of predisposing attitudes to arrive at decisions by consensus-building as a means of achieving accommodation. We still tend to give in to an institutional urge to fight for victory rather than to achieve reconciliation.

"It is easy to see, then, in today's overwhelming and critical circumstances, in the vacuum cut between fiction and fact, that so many people are resorting to attitudes which make them feel comfortable and secure, but which all too often result in polarization and conflict and push those in less comfortable circumstances to further extremes.

"Most debate about the Constitution to date has been characterized by advocacy of special interests. There has been little room offered for compromise, little comfort for those who have conflicting special interests which are held equally dear.

"There are undoubtedly many reasons why Canadians... seem

to have become arbitrary and unilateral in their points of view. It seems to be the last stand of the mainstream, an effort to sustain a dream, a fantasy, of a British North America which has been overtaken by new realities and new values... We have arrived at this political High Noon because those who think of themselves as mainstream Canadians are unsure of the cultural platform on which their lives are based."

- Convocation,  
University of Windsor,  
Windsor, Ontario  
June 8, 1991

"One of the results of the trend toward economic globalization is combined search for roots and identity, for equity and fair play. We see it in far-off lands as peoples shake off the nation-state to assert ancient national identities, to have something of meaning to wear in the marketplace of the global village.

"We find another interesting duality within ourselves. At the same time that we look inward to create space for ourselves in our own mind's eye, we also find ourselves engaged in a widespread quest to create space in a just Canada for those who have found themselves throughout history on the margins of participation...

"Deep within our hearts and souls more so than from using minds, we find the means to transcend any differences which could separate us from each other. It is there we find something that tells us that we are not "minorities", we are not "disadvantaged", we are not "career women", but rather that we are all human beings asserting our right to express who we are without arbitrary restriction, our right to apply ourselves fully to meet our challenges and to make our contributions to the world.

"That is really our common ground, ground broad enough to incorporate not only the uniqueness which was given to us as peoples, but the uniqueness which we each have as individuals. Finding the means to express our personal uniqueness is not always easy - but we must do so if we are to make our unique contribution to our own time..."

- XVII Annual Congress,  
International Society  
for Intercultural Education,  
Training and Research (SIETAR)  
Banff Springs, Alberta  
May 3, 1991

"It is in the context of reaffirmation of identity that I would like to address for just a moment those of us present who have not had the discomfort of finding themselves separated out from the mainstream as a "visible minority", or as being among those who are expected to participate in "Cultural Heritage Days", or as being one of "our" aboriginal people...

"From the dominant viewpoint, aboriginal peoples and visible minorities and persons of non-dominant cultures continue to be the 'white man's burden', seen as a sap, a drain, a brake on true progress, rather than as a source of power of great synergistic proportion. That is what more recent arrivals to Canada have to teach - the ability to nurture the cultural roots which are theirs by heritage, and yet to allow their lives to be shaped by the power of the land we call Canada..."

"If we intend to be helpful, we had better know who we are, for in knowing and respecting ourselves, we find the rationale and mandate to respect others.

"We must embrace intercultural synergy and harmony so tightly there will never be any going back.

"The future of the human race depends far more on this than on any material, scientific, or technological advance...

"We who enjoy the privilege of jet travel must extend our intercultural perspective to encompass the people of our own and other societies who know hunger and despair and poor health and who will never see the beauties of Banff. Differences of privilege and wealth and income create cultural differences perhaps even more stark than those created by language, heritage and place.

"The prejudices, the rationalizations, the exercise of power are as evident with regard to the cultures of poverty as they are with regard to race and culture.

"...We have skills and a responsibility to look for opportunities to create synergy, to build societies which include us all..."

Western Judicial Education Centre  
Conference on Aboriginal Issues  
and Gender Bias,  
Yellowknife, N.W.T.  
June 28, 1991

"While preserving the essential role which courts do and must play, we must not be afraid to explore ways in which parties at issue can creatively construct a solution which not only deals with the conflict in a way which reconciles competing interests but which also lays the foundation for a positive and mutually-beneficial relationship for the future.

"Surely if judges can interpret such visionary concepts as the Charter, judges can find ways to incorporate visionary methods of conflict resolution in their administration of justice.

"My role as Ombudsman of Ontario is one application of alternative conflict resolution which I regard as one of the most elegant innovations ever to be grafted on to modern democratic political systems.

"I am mandated to provide efficient, independent resolution of issues arising between individuals and their government by acting as a neutral, non-partisan intervenor empowered to determine whether governmental actions or inactions are fair or unfair.

"In classical terms, I provide non-binding arbitration through a process which is mandatory for the government, voluntary for the individual."

- York University Faculty of Law,  
Toronto, Ontario  
February 11, 1992

"Equality a century ago seemed so pristine and simple. One white man was considered equal to another white man, and that was that.

"Today, for those born to privileged groups in Canada equality is taken for granted: anyone who wants it can have it, they believe - what's the problem?

"My object today is to give the concept of equality closer scrutiny so we can see why it still eludes us in a country which considers itself modern, enlightened, and democratic.

"Consider, for instance, what happens when we attempt to proclaim equality in matters where inequality has been enforced over time. A society becomes moved to deal with engraved inequalities because it can no longer accept the striking disparities which have been created. When it becomes convenient to no longer enforce the inequality either by legal or extra-legal means, there is the assumption that simply declaring the end of inequality makes matters all right.

"The problem is that instant equality creates a cruelly misleading promise. Equality contains the premise that not only are we all at the same starting gate, but that we are all in the same condition to run.

"The engrained results of gross inequities do not disappear quite so easily, however. We are now three generations away from 1918, the year that Canadian men decided to permit Canadian women to vote - that is what happened, isn't it? - and three generations later we still have a Parliament in which only 13% of the Members are women...

"So many people seem to be seeking equality these days that those who exercise power have even created a name for them: "special interest groups". That's very indicative, because persons seeking equality are seen by those in power as wanting something for themselves, for their special interests, taking something away from a zero sum.

"Those who seek equality, however, most often see themselves as simply seeking to create conditions whereby they can make their own special contribution to society.

"The real special interest groups in our society are not the powerless, but the ones who hold power and are unwilling to share it. It is to them that applications for equality are addressed...

"No matter the manner in which it is expressed, the next time you hear a call for equality I encourage you to consider it in terms of finding new balance points in the distribution of power and resources, rather than as a call for expression of a moral principle..."

# The Ombudsman

*spoke, presented papers, or appeared at these venues in 1991-92:*

- April 10, 1991 Kitchener Westmount Rotary Club  
April 19, 1991 "Choices" Career Resource Day, Brantford  
April 21, 1991 East York Day  
April 22, 1991 Simcoe Rotary Club  
May 3, 1991 XVII Annual Congress, International Society for Intercultural Education, Training and Research, Banff Springs, Alberta  
May 14, 1991 Wawatay Native Communications Society Forum, Toronto  
May 16, 1991 Friends of the Bishops of Niagara, Hamilton  
May 17, 1991 "Drumbeat Summit", McMaster University, Hamilton  
June 8, 1991 Spring Convocation and Receipt of Honorary Degree of Doctor of Laws, University of Windsor  
June 15, 1991 Spring Convocation and Receipt of Honorary Degree of Doctor of Laws, Carleton University, Ottawa  
June 16, 1991 Annual Conference, Association of Canadian College and University Ombudsman, London  
June 24, 1991 Western Judicial Education Centre Conference on Aboriginal Issues and Gender Bias, Yellowknife  
August 8, 1991 Select Committee on Ontario in Confederation, Legislative Assembly  
August 10, 1991 Native Women's Association of Canada Annual Meeting, Ohsweken, Ontario  
October 3, 1991 Eastern Ontario Municipal Conference, Kingston  
October 16, 1991 19th Annual International Conference, Society of Professionals in Dispute Resolution, San Diego, California  
October 23, 1991 Standing Committee on the Legislative Assembly  
November 2, 1991 Rotary District 7080 Conference, Tillsonburg  
November 8, 1991 Fall Convocation and Receipt of Honorary Degree of Doctor of Laws, McMaster University  
November 13, 1991 International Congress on the Experience of the Ombudsman, Mexico City  
November 21, 1991 Toronto Community Legal Clinics  
November 27, 1991 Standing Committee on the Ombudsman, Legislative Assembly  
December 4, 1991 Standing Committee on the Ombudsman, Legislative Assembly  
December 18, 1991 Standing Committee on the Ombudsman, Legislative Assembly  
February 3-7, 1992 various venues in James Bay including:  
    - Moose Factory  
    - Fort Albany  
    - Kashechewan  
    - Attawapiskat  
    - Peawanuck  
February 12, 1992 York University Equality Day  
February 20, 1992 Ontario College and University Library Association 7th Annual Conference, Toronto  
March 2-5, 1992 various venues in Kenora, Fort Frances, Emo and area  
March 6, 1992 International Women's Day, McMaster University

(In addition to the Ombudsman's speaking engagements, staff met with many other groups throughout the province. Examples: North Frontenac Association for the Mentally Handicapped, Canadian Seniors for Social Responsibility, St. Lawrence College, Ottawa Youth Detention Centre, South Renfrew Mental Health Programme, Elizabeth Fry Society, Eganville Seniors' Needs Association, Salvation Army Correctional Services, Timmins High and Vocational School, John Howard Society, Federation des femmes canadiennes-franaises de l'Ontario, District of Parry Sound Municipal Association, and a wide variety of schools, housing authorities, adult learning centres, native friendship centres, and district offices of provincial organizations. Staff also provide liaison with a variety of community groups on an on-going basis.)

# VI

## National and international activities and visitors

I am pleased to have the opportunity to exchange views with colleagues in other provinces and countries. This helps to keep us informed on advances in the field or to gain new insights into problematic situations and trends. Visitors over the last two years have included David Lander, Ombudsman of New South Wales; Walter Mallmann, Bürgerbeauftragter des Landes Rheinland-Pfalz; representatives of the Austrian Constitutional Court; Kenneth Wiltshire, University of Queensland, Australia; Abdah Rahmancissi, Government of Senegal; Helen Hughes, Parliamentary Commissioner, New Zealand; Rosario Green, Executive Director, National Commission on Human Rights, Mexico; Teruo Nakai, Tokyo Metropolitan Government/Federation of Local Government, Japan; Chaichate Soontornpipit, Secretary General, Office of the Commission of Counter Corruption, Bangkok, Thailand; Charles Aoeo, Papua New Guinea.

The international activities of Ombudsman also assist other countries, including those with whom Canada has considerable trade and social relations, to use the Ombudsman concept to improve human rights and public administration. Last October, I attended an International Ombudsman Congress sponsored by the Mexican National Commission on Human Rights, "with the proposition of uniting the principal Ombudsman of the world to know their rich experience in the mission of guarding the promotion, protection, and defense of human rights of their respective countries." The Congress was inaugurated by the President of Mexico, Carlos Salinas de Gortari and was attended by over 400 persons.

At the annual meeting of the Board of Directors of the International Ombudsman Institute, the Ombudsman of Ontario proposed a special workshop be held at the quadrennial international Ombudsman Conference in Vienna. The objective of the event would be to examine how the work of an Ombudsman might be enriched by the adaptation of traditional means of conflict resolution used by non-Western cultures to deal with issues between public and governments, as well as to consider how the Ombudsman concept can be adapted to serve non-Western countries or countries with indigenous populations. The proposal was accepted, and the Ombudsman of Ontario will deliver the keynote address.

### National Investigators' Workshop

Due to the nature of the Ombudsman's work, it is difficult to find opportunities where staff can exchange ideas with others about the special challenges that are faced in Ombudsman investigations. In December, we hosted a national workshop in which there was a free exchange of ideas among representatives of other offices charged with similar responsibilities. Topics included system-wide investigations, remedies available at the end of an investigation, and measures taken to encourage individuals to come forward with necessary information. The workshops were well-attended. The workshops were a vital contribution to the development and training of staff.

## The International View: The Ombudsman Around The World

### — Jamaica —

"It is vitally important for every segment of society touched by the Ombudsman's functions - the public, the public service, the Government and Parliament - to have respect for and support for the Ombudsman's actions and functions. A sense...of the dignity and integrity of the Ombudsman which can only be engendered and maintained by a mutuality of understanding...is a prerequisite to success."

# NORTHERN TERRITORY AUSTRALIA

"The bewildering arms of administration are best described by the superintendent in Franz Kafka's unfinished novel, *The Castle*, who tells the frustrated central characters, "You haven't up to now come into real contact with authorities. All those contacts of yours have been illusory, but owing to your ignorance, you took them to be real."

# NEBRASKA USA

"The combined characteristics of modern government tend to generate an assortment of grievances in various cases where citizens feel, rightly or wrongly, that their government has treated them in a manner that is unreasonable, unfair, or improper. While some of those grievances are ultimately resolved through the efforts of the complaining party, many grievances are left unresolved, either because no avenue for solution exists, or because the grievant lacks the resources and sophistication necessary to utilize the avenues that exist. Where such grievances are left unresolved, citizens are alienated from their government and the efforts of governmental operatives are reinforced."

# : poland :

"There seems to be an excessive trust in the 'invisible hand of the market' without awareness of the fact that the market functions differently in rich vs. poor societies... The legal instruments of consumer protections were aimed against the dictate of socialized firms. Today, they should protect the weaker party against the dictate of a private supplier of goods and services. That protection was not introduced in time... What is required here are classical measures borrowed from the legislature of countries with established market economy. No where in the world are such questions left to themselves."

# Pakistan

"The aspects of maladministration most complained of included delays, acts of omission and commission, discrimination, arbitrariness, perversity, unreasonableness, bias, oppressiveness, unfairness, favouritism, nepotism, administrative excess, neglect, inattention, ineptitude, incompetence, and so on... The Mohtasib (Ombudsman) may arrange for studies or research with a view to eradicating the root causes of maladministration..."

"The institution of Ombudsman may commonly be considered an adversary to bureaucracy as its function ultimately shows up the performance of public functionaries in poor light... he is not only a champion of the aggrieved citizen, but also a friend of the public functionaries and government agencies. While highlighting their shortcomings, he also suggests ways and means to overcome them, which ultimately leads to building up a better image of the agencies, and an improved relationship with the public. The Ombudsman... does not treat complaints as derogatory documents depicting discredit of the Government agencies, but as opportunities for not only redressing the particular grievance complained of, but also of identifying possible loopholes in operating procedures."

# • England •

(Commission for Local Administration):

"Customer care and quality assurance are high on the list of priorities for most local authorities these days... Local authority associations are supporting authorities in their quest for excellence... The last few years have seen a dramatic improvement. Not only has recent legislation required social services departments to set up complaints procedures and led to the introduction into local government of monitoring officers, but an increasing number of authorities have established comprehensive complaints procedures for all their services as part of their customer care and quality assurance programmes..."

One of the Commission's stated objectives is to encourage local authorities to settle complaints locally. And it is a key principle of the way the Commission works that investigators should try to secure the local settlement of a complaint at the earliest possible stage in their enquires, and failing that, should continue to do so throughout the investigation.

...Recent legislation has given the Local Government Ombudsman power to require a local authority which continually refuses to implement a recommendation of the Ombudsman to insert, at the authority's expense, a statement in a local newspaper consisting of the action recommended by the Ombudsman and, if the authority wishes, a statement of the reasons for their non-compliance... The cost of inserting such a statement is in many cases greater than the amount of the remedy required...

The Local Government and Housing Act 1989 enhanced the Commission's responsibility to provide authorities with advice on good practice derived from the Local Government Ombudsman's investigations..."

# QWAGWA

"To expect the Ombudsman to expunge a society's systematic injustices would be erroneous: he cannot change the values of a society. He can merely strive to uphold fundamental principles already established. The Ombudsman can fruitfully consider a grievance involving disregard of a person's established rights, but he loses effectiveness when he undertakes social engineering of major proportions.

Secondly, the Ombudsman succeeds chiefly when government officials in general share the values he seeks to nurture. A grievance mechanism works smoothly only when those who operate it and those upon whom it operates are worthy individuals moved by common ideals.

Thirdly, Ombudsman in various countries have been of most help to individuals who possess a rights consciousness, something infrequently found among the least advantaged elements of any society. Bringing a new institution into being provides no absolute assurance that those who most need its services will actually receive them..."

# Mauritius

"A person who is the victim of bureaucratic process is often tempted to throw down his arms in the belief that he cannot afford to fight against the State, or that the State would be indifferent or even deaf to his grievance. Another one may feel he has a good case against the State, but is discouraged from seeking redress through the Court in view of high cost of litigation and time factor. Such persons must nevertheless be protected against administrative mistake, negligence, undue delay, or any other unwarranted action... Hence the need for an Ombudsman.

Experience shows that very often it is not a particular decision of the administration that hurts or frustrates a person, but a lack of awareness of the reason behind the decision. If the reason motivating the decision is well founded, then once he knows it he has no more cause for complaint and will not complain...

It must not be believed that every time the Ombudsman receives a complaint this means that the administration has gone wrong somewhere. The Ombudsman will certainly poke his nose into the actions of the administration, but he will definitely identify after investigation which complaints are frivolous or unjustified and reject them. He will thus act like a shield for the administration... Therefore, although the Ombudsman is often referred to as the citizen's defender, it would be wrong to call him the administration's accuser..."

# Zimbabwe

"When the Ombudsman's powers to diagnose, investigate, redress and rectify any injustice done to persons through maladministration is combined with the citizen's perception of the concept of the institution, a situation is created in which the citizen comes to believe that the Ombudsman has a remedy for every problem confronting him. He is not bothered with the technicalities or jurisdiction or limitation. As a result of this attitude, the Office receives complaints involving agencies clearly outside his jurisdiction... In fact, he also receives complaints based on private disputes and even family or domestic feuds.

The fact that nearly 50% of all applications are not entertained at the outset shows how many people seek the Ombudsman's indulgence. Yet from amongst the sufferers, the Office gives serious thought to problems that could be resolved by his informal intervention... The underlying principle is that a complainant calls on the Office as his last hope. If by our reference he is given relief, he is amply rewarded.

I have been conscious of the ever-present need not just to talk about human rights, but to ensure that something practical is done to protect human dignity, to propagate individual freedom, to prevent unfair discrimination and to protest the abuse of power. An Ombudsman is uniquely in a position to help in this sphere. I frankly do not care if something falls within the ambit of his jurisdiction or not - if that something is evidence of any unfair infringement of a person's rights, it is then, I submit, an Ombudsman's duty to act..."

The Ombudsman is neither the attorney for the State nor the Advocate of the citizen, but the arbitrator for both. Clearly, therefore, the impartiality and independence of the Ombudsman are crucial to the concept, for without a conviction on both sides of the dyad that the enquiry will be without bias, without interference, and without the possibility of external influence, the ensuing conclusion will inevitably be received without satisfaction on final acceptance.

... [The tendency of the people] is to think that he must be a government servant - after all, his pay comes from government funds and must therefore either be subject to Government direction or fearful of government opprobrium if he/she steps out of line. On the other hand, government servants have an inclination to view the Ombudsman as some sort of spy seeking to catch them out, dedicated to proving them wrong or determined to thwart their career prospects...

It is not with the force of power but with the balm of persuasion that the Zimbabwean Ombudsman's Office seeks to solve the problems brought to it... My approach was to take the administrator along with me in solving the grievances of the people. I resolved to avoid confrontation or collision and clash of any kind with the bureaucracy which was extremely well-entrenched and for whom the very idea of accountability was like a personal affront...

This approach was criticized by many well-wishers who thought in different terms... I was expected to be the retribution for the wrong perpetrated by a corrupt and wayward administration. I could have been carried away by this approach which was no doubt seductive and appealing [but] I wanted the idea of accountability to slowly percolate to the lowest strata of administration. Now, when I look back, I find my approach has been right.

# Guam

"The society in Guam is an emerging society, and it demands its government render multiple and varied services. This has led to the creation of large and complex administrative bodies. Faced with this bureaucratic giant and all its diverse functions, the ordinary citizen finds himself confused. Being adversely affected by the multiple administrative rulings, he is uncertain where he can appeal and often does not even know that he has suffered any wrong. What can he do? Where can he go for help? What means are available to direct him through the administrative maze of government? The answer to these questions is one word - Ombudsman."

# Israel

"Prominent among the characteristics of our time are the expansion of bureaucracy and the increased diversity of the areas of life in which it is involved. This phenomenon creates a wide field for friction between the citizen and the administration, and not a small degree of dependency by individuals on the bureaucratic apparatus. The citizen does not always get a material response or proper attitude in his contacts with those who are supposed to provide him with needed services. Sadly, phenomena such as delays, red tape, indifference and thoughtlessness or even administrative arrogance are not rare.

...Often there are no administrative rules or clear-cut procedures for dealing with a given matter. Even if they exist, the bureaucracy does not always see to it that they are brought to the public's attention...

The first and main aim of the Commissioner's Office is to deal with the specific grievance of the individual complaint. But only too often, the results of the inquiry into a specific case point to malfunctioning of the bureaucratic apparatus and demands the establishment of a general norm... An accumulation of justified complaints on a certain subject often points to a defect in the system and demands that a decision be made extending beyond the specific cases in order to rectify it..."

# VII

## STATISTICAL INFORMATION

During the 1991-92 fiscal year, the Ombudsman dealt with 33,261 inquiries and complaints.

Figure 1 provides a breakdown by sector of all inquiries and complaints which were closed during the fiscal year. The breakdown of the number of inquiries and complaints is shown in the accompanying table.

Figure 2 shows the final disposition of all inquiries and complaints which were closed during the fiscal year.

► In 26,277 cases (79%), no further action was required or possible beyond the giving of a referral or making an inquiry on behalf of the complainant.

► In 2,528 cases (8%), even though the complaint was not within the Ombudsman's investigative jurisdiction, the Ombudsman was able to facilitate a satisfactory resolution of the matter.

► There were 2,040 cases (6%) discontinued. Of these, 1,452 were discontinued by the Ombudsman because an adequate alternative remedy was available to the complainant, or no further involvement was required.

Figure 3 shows the final resolution of all inquiries and complaints regarding provincial government organizations which were closed during the fiscal year.

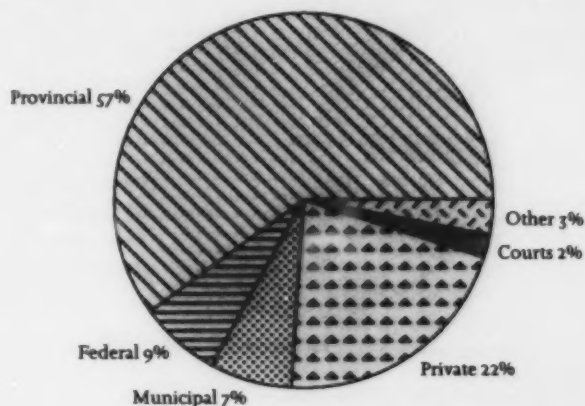
Figure 4 shows the final resolution of all Provincial complaints which were closed during the fiscal year regarding Provincial Governmental Organizations.

Figure 5 illustrates the total number of Corrections inquiries and complaints which were closed by the Ombudsman and the way in which they were resolved.

Figure 6 breaks down the Corrections complaints and inquiries by subject matter.

## 1991-92 Closed Complaints and Inquiries Involving Both Provincial and Non-Provincial Agencies

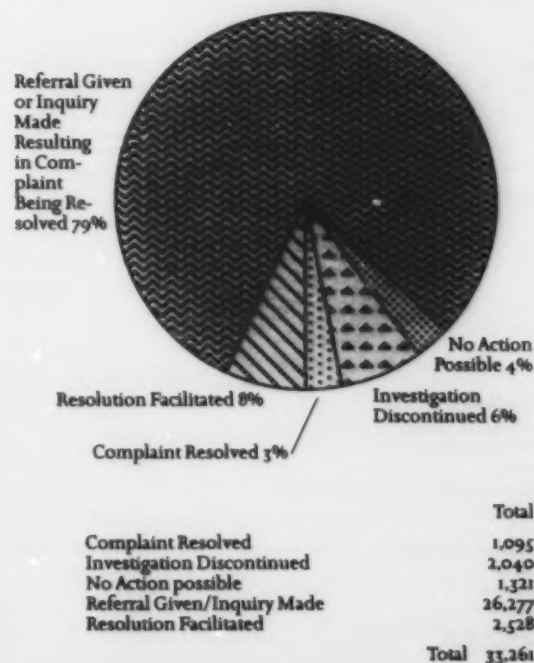
Figure 1



| Agency         | Total Inquiries | Total Complaints | Total  |
|----------------|-----------------|------------------|--------|
| Provincial     | 11,997          | 6,960            | 18,957 |
| Non-Provincial | -               | -                | -      |
| Federal        | 2,761           | 143              | 2,904  |
| Municipal      | 2,087           | 294              | 2,381  |
| Private        | 6,945           | 421              | 7,366  |
| Courts         | 668             | 81               | 749    |
| Other          | 865             | 39               | 904    |
| Total          |                 |                  | 33,261 |

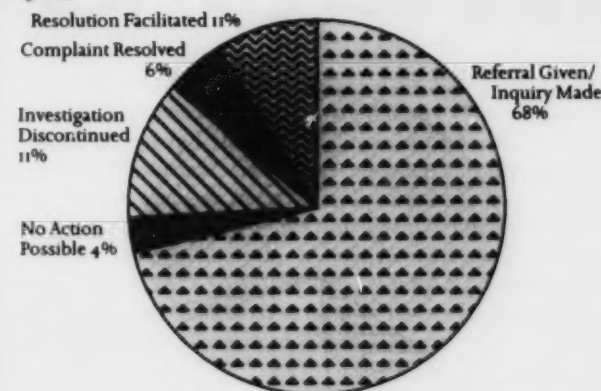
## All Complaints And Inquiries By Final Resolution

Figure 2



## Provincial Complaints And Inquiries By Final Resolution

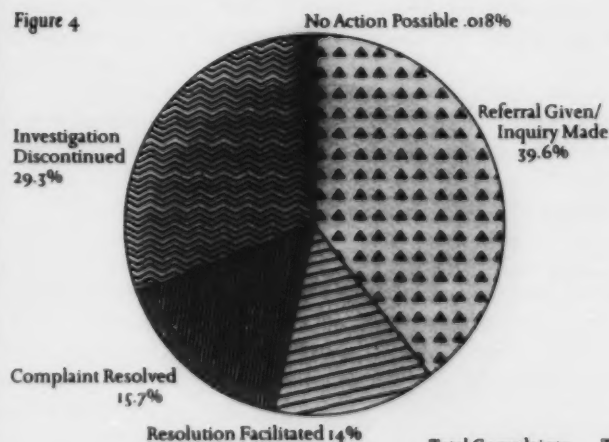
Figure 3



|                                                                    | Total Inquiries | Total Complaints | Total  |
|--------------------------------------------------------------------|-----------------|------------------|--------|
| Complaint Resolved                                                 |                 |                  | 1,095  |
| By Ombudsman in Favour of Complainant                              |                 | 617              |        |
| By Ombudsman in Favour of Government Organization                  |                 | 295              |        |
| By Ombudsman in Favour of Government Organization with Suggestions |                 | 55               |        |
| By other                                                           |                 | 128              |        |
| Investigation Discontinued                                         |                 |                  | 2,040  |
| By Complainant                                                     |                 | 588              |        |
| By Ombudsman                                                       |                 | 1,452            |        |
| No Action Possible                                                 | 673             | 128              | 801    |
| Referral Given/Inquiry Made                                        | 10,206          | 2,760            | 12,966 |
| Resolution Facilitated                                             | 1,118           | 937              | 2,055  |
| Total                                                              | 11,997          | 6,960            | 18,957 |

## Provincial Complaints By Final Resolution

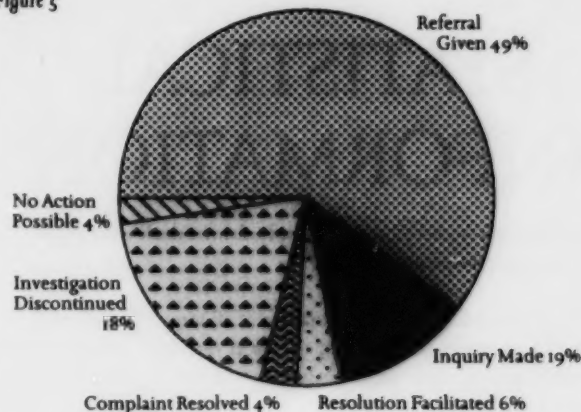
Figure 4



|                                                                    | Total Complaints | Total |
|--------------------------------------------------------------------|------------------|-------|
| Complaint Resolved                                                 |                  | 1,095 |
| By Ombudsman in Favour of Complainant                              | 617              |       |
| By Ombudsman in Favour of Government Organization                  | 295              |       |
| By Ombudsman in Favour of Government Organization with Suggestions | 55               |       |
| By other                                                           | 128              |       |
| Investigation Discontinued                                         |                  | 2,040 |
| By Complainant                                                     | 588              |       |
| By Ombudsman                                                       | 1,452            |       |
| No Action Possible                                                 | 128              | 128   |
| Referral Given/Inquiry Made                                        | 2,760            | 2,760 |
| Resolution Facilitated                                             | 937              | 937   |
| Total                                                              | 6,960            | 6,960 |

## Corrections Complaints And Inquiries By Final Resolution

Figure 5



|                                                                    | Total Inquiries | Total Complaints | Total |
|--------------------------------------------------------------------|-----------------|------------------|-------|
| Complaint Resolved                                                 |                 |                  | 288   |
| By Ombudsman in Favour of Complainant                              |                 | 167              |       |
| By Ombudsman in Favour of Government Organization                  |                 | 19               |       |
| By Ombudsman in Favour of Government Organization with Suggestions |                 | 7                |       |
| By other                                                           |                 | 95               |       |
| Investigation Discontinued                                         |                 |                  | 1,419 |
| By Complainant                                                     |                 | 386              |       |
| By Ombudsman                                                       |                 | 1,033            |       |
| No Action Possible                                                 | 322             | 18               | 340   |
| Referral Given                                                     | 3,732           | 149              | 3,881 |
| Inquiry Made                                                       | 1,426           | 63               | 1,489 |
| Resolution Facilitated                                             | 501             | 14               | 515   |
| Total                                                              | 5,981           | 1,951            | 7,932 |

## Corrections Complaints And Inquiries By Subject Matter

Figure 6

| Subject Matter                                         | Number of Complaints | Subject Matter                               | Number of Complaints |
|--------------------------------------------------------|----------------------|----------------------------------------------|----------------------|
| Health Care Inadequate or Denied                       | 1,328                | Telephone Access/Use                         | 73                   |
| Classification/Transfer/Committal                      | 1,041                | Health - Other                               | 73                   |
| Living Conditions in General                           | 490                  | Glasses, Eye Care                            | 72                   |
| Staff Conduct                                          | 403                  | Yard                                         | 69                   |
| Personal/Inmate Property                               | 384                  | Religious or Life Style Diet                 | 65                   |
| Other                                                  | 378                  | No Response to Request                       | 65                   |
| Temporary Absence Pass                                 | 337                  | Protective Custody                           | 57                   |
| Discretionary Program                                  |                      | Living Conditions - Smoking                  | 48                   |
| Decisions                                              | 322                  | Community Resource Centre                    | 43                   |
| Living Conditions - Canteen Allowance Program          | 308                  | Classification - Other                       | 43                   |
| Living Conditions - Food/Diet                          | 280                  | Aids, Hepatitis                              | 40                   |
| Inmate Misconduct                                      | 273                  | Mental Health Care                           | 40                   |
| Policy/Practice                                        | 209                  | Lost Earned Remission                        |                      |
| Parole                                                 | 195                  | Punitive Segregation                         | 36                   |
| Dental                                                 | 167                  | Charter of Rights                            | 36                   |
| Living Conditions - Segregation                        | 152                  | Pre-Release                                  | 33                   |
| Prescription Request Denied                            | 134                  | Medical Segregation                          | 30                   |
| Correspondence                                         | 134                  | Transfer Federal Institution                 | 29                   |
| Staff Misconduct - Assault                             | 118                  | Freedom of Information/Protection of Privacy | 27                   |
| Medical Diet                                           | 102                  | Ombudsman                                    | 21                   |
| Institutional Discipline Other Than Inmate Misconducts | 76                   | Ombudsman Letter Denial                      | 20                   |
| Visiting Privileges                                    | 74                   | Second Opinion Denied                        | 19                   |
| Living Conditions - Overcrowding                       | 73                   | Secure Facility                              | 15                   |
|                                                        |                      | Searches                                     | 11                   |
|                                                        |                      | Administrative Segregation                   | 9                    |
|                                                        |                      | Open Facility                                | 6                    |
|                                                        |                      | French                                       | 6                    |
|                                                        |                      | Intermittent Sentence                        | 4                    |
|                                                        |                      | Probation                                    | 3                    |

# VIII

## EXPENDITURES

### FOR 1991-92

### FISCAL YEAR

|                                               |                  |
|-----------------------------------------------|------------------|
| Salaries                                      | 5,392,467        |
| Employee Benefits                             | 1,240,077        |
| Travel & Relocation                           | 192,426          |
| Telephone, Mailing & Delivery                 | 239,388          |
| Building Rent (including tax and maintenance) | 1,053,706        |
| Equipment & Other Rentals                     | 94,981           |
| Public Advertising/Communication              | 387,607          |
| Professional Services                         | 242,170          |
| Training & Development                        | 87,821           |
| Security Services                             | 76,944           |
| Computer Equipment & Software - Purchased     | 117,442          |
| Maintenance & Support for                     |                  |
| Computer Equipment & Software                 | 63,471           |
| Leasehold Improvements                        | 62,000           |
| Other Services                                | 119,182          |
| Furniture & Office Equipment - Purchased      | 77,768           |
| Office Supplies & Devices                     | 63,694           |
| Books & Publications                          | 48,813           |
| Printing of Reports & Procedures              | 11,150           |
| Other Supplies & Equipment                    | 52,745           |
| <b>Total</b>                                  | <b>9,623,852</b> |

## THE OMBUDSMAN'S OFFICES

Roberta Jamieson  
Ombudsman of Ontario  
125 Queen's Park  
Toronto, Ontario  
M5S 2C7

(416) 586-3300  
TDD: (416) 586-3510/3512  
Fax: (416) 586-3485

Toll-free numbers:  
English: 1-800-263-1830  
French: 1-800-387-2620

### DISTRICT OFFICES

**Kenora**  
100 Chipman St.  
Unit 10, Market Square  
Kenora, Ontario P9N 4E4  
(807) 468-2851  
468-2853 (fax)  
468-2972 (TDD)

**Sudbury**  
66 Elm St., Suite 108  
Sudbury, Ontario P3C 1R8  
(705) 688-3116  
688-3084 (fax)  
670-0328 (TDD)

**London**  
402 Adelaide St. N.  
London, Ontario N6B 3H6  
(519) 675-7741  
438-2399 (fax)  
432-9471 (TDD)

**Thunder Bay**  
213 Red River Rd.  
Thunder Bay, Ontario P7B 1A5  
(807) 345-9235  
345-0378 (fax)  
346-9130 (TDD)

**North Bay**  
450 Main St. W., Unit #2  
North Bay, Ontario P1B 2V2  
(705) 476-5800  
497-9931 (fax)  
476-4156 (TDD)

**Timmins**  
30-32 Balsam St. S.  
Timmins, Ontario P4N 2C6  
(705) 268-2161  
268-8377 (fax)  
268-2885 (TDD)

**Ottawa**  
151 Slater St. #308  
Ottawa, Ontario K1P 5H3  
(613) 239-1487  
239-1489 (fax)  
232-8569 (TDD)

**Windsor**  
224 Erie St. W.  
Windsor, Ontario N9A 6B5  
(519) 973-1314  
977-1495 (fax)  
973-1401 (TDD)

**Sault Ste. Marie**  
500 Bay St.  
Sault Ste. Marie, Ontario P6A 1X5  
(705) 945-6914  
945-6916 (fax)

# THE OMBUDSMAN'S STAFF

(as of March 31, 1992)

Kwame Addo  
Margaret Ainslie  
John Allan  
Lee Anderson  
Marney Anderson  
Jeanne Ang  
Christine Angus-Jones  
Tim Arkell  
Betty Baker  
Sherry Baptista  
Suzanne Bernier  
Julie Bertrand  
Calvin Blackwood  
Paula Boothby  
Lorraine Boucher  
Maureen Bourns  
Ginette Brindle  
Dale Bryant  
Klaas Bylsma  
Mary Carl  
Gerry Carlino  
Barbara Casson-Robin  
Sharon Chambers  
Don Cheff  
Gillian Clark  
Joyce Coolman  
Jackie Correia  
Francis Corrigan  
Jackie Crawford  
Fiona Crean  
Barbara Crossley  
Penny Cummings  
Rosie Dear  
Zalina Deodat  
Millicent Dixon  
Steven Drawbell  
Edward Durrant  
Cathy Evans  
Paula Eyler

Serge Falardeau  
Peter Farncombe  
Mary Jane Fenton  
Frank Fowlie  
Lois Friedman  
Kwasi Frimpong  
Perry Gerhard  
Beth Gilbert  
Dianne Griffin  
Sue Haslam  
Marylynn Higgins  
Barbara Hirst  
Jackie Holmes  
Elsa Hung  
Lynn Hunt  
Esla Hutchinson  
Alison Irons  
Thomas Irvine  
Azire Isovski  
Gini Johnson  
Eva Kalisz  
Olga Katamay  
Elizabeth Keddie  
Martha Keil  
Janet Kershaw  
Barbara Kiesecker  
Dianne King  
Inez Knudson  
Lorna Lampkin  
George La Rosa  
Diane Lauzon  
Jane Lawrence  
Sharon Leblanc  
Allan Lee  
Barbara Lee  
Judith Lee  
Lourdes Legardo  
Adam Leigh  
Patricia Leydier

Lourine Lucas  
Nicole Luer  
Victor Marcuz  
Carol Markusoff  
Laurel May  
Florence Mennie  
Minerva Mohammed  
LaVerne Monette  
Dean Morra  
Ginette Morrish  
Margret Morton  
James Nicholas  
Sherrie Nicholson  
Daudi Ndiwa-Lana  
Mary Elizabeth Nugent  
Michael Orr  
Janet Ortvad  
David Paradiso  
Nancy Parker  
Irv Pease  
Kathy Penfold  
Manuela Popa  
Matilda Presner  
Wendy Ray  
D'Arcy Robert  
Faye Rodgers  
Josie Roman  
Janet Rose  
Wolfgang Schulz  
Joe Semenciw  
Donna Toner  
Elizabeth Virc  
Elizabeth Weston  
Shelly Wilcox  
Jennifer Wong  
Barbara Worthington  
Pam Young  
Jackie Yuen  
Leticia Zapanta

# MISSION STATEMENT

It is the mission of the Ombudsman of Ontario to assist the people of Ontario to enjoy public service of the highest quality from provincial government organizations.

The Ombudsman achieves this goal through the prompt efficient investigation and resolution of complaints, issues and concerns which are brought to her attention or are investigated on her own initiative.

While her services are available to all members of the Ontario public, the Ombudsman is particularly alert to the need to serve those individuals and groups in society who are most vulnerable to injustice.

The Ombudsman is assisted in retaining the confidence of public and officials by a professional staff who uphold the same high professional standards expected of the Ombudsman herself. Through internal training and professional development programs, the Ombudsman provides opportunities for her staff to enhance their capacity to provide service to the public.

The Ombudsman's services are kept relevant and appropriate to the people of Ontario as needs and circumstances change, and she makes all possible effort to ensure that all people in Ontario are aware of the availability of her services, and that they are accessible to all who wish to use them. The processes and procedures she uses are "people friendly". The Ombudsman's services are rendered in a manner which is culturally-appropriate, timely, cost-efficient, and effective.

The Ombudsman acts in an impartial manner, using objective standards, so the people of Ontario may have confidence in her decisions.

The Ombudsman's educational activities increase the public's knowledge of Ombudsmanship as a mechanism of direct participation in the improvement of democracy.

The Ombudsman encourages governmental organizations to regard her as a creative resource for progressive government administration.

The Ombudsman carries out her mandate with appropriate regard for the role of the Legislative Assembly, the Standing Committee on the Ombudsman, and individual Members.

The Ombudsman contributes to the evolution of Ombudsmanship by developing standards and criteria regarding government administration.

The Ombudsman ensures that her own organization adheres to the standards which are expected of others.

The Ombudsman demonstrates the development and use of appropriate techniques and mechanisms to resolve issues and concerns.

In addition to investigating individual complaints, the Ombudsman examines systemic and "own motion" concerns.